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PROTECTION OF WORKMEN IN THEIR EMPLOYMENT.

BY STEPHEN D. FESSENDEN, A. B., LL. M.

INTRODUCTION.

To those classes in the community the individual members of which depend for their existence upon the earnings from their labor, permanency of employment is undoubtedly the great desideratum. Receiving as a rule a fair daily, weekly, or monthly rate of pay, the continued, unbroken receipt of the same throughout the year would usually assure the wage-earner of at least a moderate living for himself and family. Many causes, however, conspire to prevent this permanency, and it is undoubtedly the general rule that some portion of the year, large or small, as the case may be, is passed by the average workman out of employment. This is true not only of the unskilled day laborer, but also of the skilled workman, the mechanic, etc. Among the various causes of this condition may be mentioned failure of work caused by business depression, either general or local, the supply of laborers of a certain class or classes exceeding the demand for their services, and the introduction of new and improved machinery, producing at least a temporary falling off in the demand for labor.

Such causes as the above, more of which could be specifically mentioned, arising from the economic condition of a country, or perhaps of the civilized world, are hardly capable of amelioration by the efforts of the legislator or of the civil authorities of any community in any broad and general way.

There are, however, causes at work which prevent men, able and willing to work, from obtaining employment or from retaining employment, which are not directly affected or caused by the great economic

principles underlying our civilization, such as the law of supply and demand, but arise from the acts of individuals, or aggregations of individuals, acting with more or less deliberate intent to produce the effect mentioned—loss of employment.

Such causes are, on the one hand, the action taken by employers of labor in discharging individual workmen for exercising civil or political rights contrary to the desire of the employer; in "blacklisting" employees who have left their service, thus almost inevitably preventing them from obtaining new employment; in "locking out" the employees in case of a threatened strike or a dispute arising between employer and employee, and, on the other hand, the action taken by employees in attempting to limit the number of workmen in certain trades by preventing the taking of apprentices therein by the employers; in attempting, in the case of strikes, by persuasion, intimidation, and even by force, to prevent new men from being employed by or continuing in the employ of the employer, and in attempting to cause the discharge of laborers not belonging to labor unions or organizations.

In such cases, more of which might easily be enumerated, it is neither at all times necessary, nor is it expedient, to allow affairs to work themselves out to a conclusion with no effort being made to settle them on a reasonable and just basis and to obtain for the laborer that opportunity to work which he is desirous of obtaining. The quality of selfishness so predominates in human nature that power, rather than strict right and justice, is apt to be the controlling force in the settlement of such matters, if they are left to settle themselves as between the parties immediately in interest, and, therefore, interference by legal authorities seems often not only proper but necessary.

The ways and means in and by which the Federal and State authorities may interfere for the protection of employees who are ready and willing to work, but are kept from so doing by means more or less removed from their own control, are not perhaps so generally understood, even in this country, as it is expedient that they should be, and an attempt will be made, in continuing, to describe and explain the more important powers which may be legally exercised in this direction by such authorities, and also to point out, more or less in detail, the particular abuses against which such action may be directed.

POSSIBLE OFFICIAL ACTION.

It may be stated as a general proposition that all measures that have been taken in the past or that may be taken in the future by the Federal and State authorities to protect employees from practices tending to prevent them from obtaining or retaining employment may be resolved into two classes, viz:

1. The enactment of statutes by the Federal Congress and the legislatures of the States directed against such practices; and

2. Action taken by the executive and judicial officers of the States, under authority derived from such statutes or from the common law, for the purpose of enforcing the provisions of the same or causing the penalties provided for the violation of such provisions to be enforced.

STATUTE LAW.

In the consideration of the first class the statutes may be considered as being of three kinds, those that are aimed at practices or deeds of the employers of labor, those directed against the deeds of employees, and those providing for action to be taken by third parties. While the above is true as a general proposition, yet many of these statutes, notably those aimed at the punishment of conspiracy and the prevention of intimidation, coercion, boycotting, and blacklisting, either in their terms apply to the acts both of the employers and employees or else are couched in such general language as to be fairly construed so to apply, and even those which provide for action to be taken by third parties, such as the laws providing for arbitration, etc., usually contain, also, provisions regulating the action of the parties in interest—the employer and employees. For this reason it is practically impossible to separate entirely these different kinds of statutes, and in what follows they will be treated of largely in a mass.

Many of the actions of both employers and employees, at which these statutes are directed, arise or grow out of labor disputes and their frequent consequences, strikes, lockouts, etc.

COMMON LAW—BLACKLISTING—BOYCOTTING—LABOR COMBINATIONS.

The prevention of employees from obtaining employment in such cases as above is usually brought about either from the action of the employer in "blacklisting" the workmen who have been engaged in a strike, etc., or in the action of the workmen, after they have left work, in attempting to prevent the employment of new men as a means of compelling the employer to yield to their demand.

Blacklisting, as the term is generally used, may be defined as the making by the employers of lists of names of employees against whom they have complaints, and the exchanging of said lists among themselves for the purpose of preventing such employees from obtaining new employment. Another form of blacklisting is that done by employees, or associations of employees, in making and circulating lists of nonunion men and warning union men not to work where they are employed.

It is doubtful if under the common law criminal responsibility could be fixed in cases of blacklisting, though technically, perhaps, such a practice might be held to be an unlawful combination or conspiracy.

It is probable, therefore, that no action could be taken in such cases by State authorities in the absence of definite statutes making blacklisting a criminal offense.

Under the common law it is held, generally, that workmen have the right to strike and leave work, either singly or in combination, at any time; that they may organize to improve their condition and to gain their ends; and that they may use peaceful means, persuasion, etc., to induce other workmen either to strike and leave their employment or to refrain from accepting employment with an employer against whom a strike has been declared, but that in order to make such strike effective they must not use unlawful means, such as intimidation, force, coercion, etc., and the use of such unlawful means will render those engaged in the strike guilty of conspiracy. No State has passed a statute even attempting to change the above-stated principle, and Pennsylvania has reaffirmed the same by practically restating it in a statute which is to be found on page 484 of Brightly's Purdon's Digest, edition of 1895, and which reads as follows:

SECTION 72. It shall be lawful for any laborer or laborers, workingman or workingmen, journeyman or journeymen, acting either as individuals or as the member of any club, society, or association, to refuse to work or labor for any person or persons, whenever, in his, her, or their opinion, the wages paid are insufficient, or the treatment of such laborer or laborers, workingman or workingmen, journeyman or journeymen, by his, her, or their employer is brutal or offensive, or the continued labor by such laborer or laborers, workingman or workingmen, journeyman or journeymen, would be contrary to the rules, regulations or by-laws of any club, society, or organization to which he, she, or they might belong, without subjecting any person or persons so refusing to work or labor to prosecution or indictment for conspiracy under the criminal laws of this Commonwealth: *Provided*, That this act shall not be held to apply to the member or members of any club, society, or organization, the constitution, by-laws, rules, and regulations of which are not in strict conformity to the constitution of the State of Pennsylvania and to the Constitution of the United States: *Provided*, That nothing herein contained shall prevent the prosecution and punishment, under existing laws, of any person or persons who shall, in any way, hinder persons who desire to labor for their employers from so doing, or other persons from being employed as laborers.

SEC. 73. It shall be lawful for employees, acting either as individuals or collectively, or as the members of any club, assembly, association, or organization, to refuse to work or labor for any person, persons, corporation, or corporations, whenever in his, her, or their opinion the wages paid are insufficient, or his, her, or their treatment is offensive or unjust, or whenever the continued labor or work by him, her, or them would be contrary to the constitution, rules, regulations, by-laws, resolution, or resolutions of any club, assembly, association, organization, or meeting of which he, she, or they may be a member or may have attended, and as such individuals or members or as having attended any meeting, it shall be lawful for him, her, or them to

devise and adopt ways and means to make such rules, regulations, by-laws, resolution, or resolutions effective, without subjecting them to indictment for conspiracy at common law or under the criminal laws for this Commonwealth:

Provided, first, That this act shall not be held to apply to the member or members of any club, assembly, association, organization, or meeting, the constitution, rules, regulations, by-laws, resolution, or resolutions of which are not in conformity with the Constitution of the United States and to the constitution of this Commonwealth:

Provided, second, That nothing herein contained shall prevent the prosecution and punishment, under any law, other than that of conspiracy, of any person or persons who shall, by the use of force, threats, or menace of harm to person or property, hinder or attempt to hinder any person or persons who may desire to labor or work for any employer from so doing for such wages and upon such terms and conditions as he, she, or they may deem proper:

And provided, third, That nothing herein contained shall prevent the prosecution and punishment of any persons conspiring to commit a felony.

The State of Texas, in chapter 153 of the acts of 1899, has recently passed the following law, somewhat similar in principle to that of Pennsylvania, above:

SECTION 1. From and after the passage of this act it shall be lawful for any and all persons engaged in any kind of work or labor, manual or mental, or both, to associate together and form trade unions and other organizations for the purpose of protecting themselves in their personal work, personal labor, and personal service, in their respective pursuits and employments.

SEC. 2. And it shall not be held unlawful for any member or members of such trade unions or other organization or association, or any other person, to induce or attempt to induce by peaceable and lawful means, any person to accept any particular employment, or quit or relinquish any particular employment in which such person may then be engaged, or to enter any pursuit, or refuse to enter any pursuit, or quit or relinquish any pursuit in which such person may then be engaged: *Provided*, That such member or members shall not have the right to invade or trespass upon the premises of another without the consent of the owner thereof.

SEC. 3. But the foregoing sections shall not be held to apply to any combination or combinations, association or associations of capital, or capital and persons, natural or artificial, formed for the purpose of limiting the production or consumption of labor's products, or for any other purpose in restraint of trade: *Provided*, That nothing herein contained shall be held to interfere with the terms and conditions of private contract with regard to the time of service, or other stipulations between employers and employees: *Provided, further*, That nothing herein contained shall be construed to repeal, affect, or diminish the force and effect of any statute now existing on the subject of trusts, conspiracies against trade, pools, and monopolies.

A number of other States have passed laws more or less resembling those of Pennsylvania and Texas. They are Colorado, Maryland,

Michigan, Minnesota, Montana, Nebraska, New Jersey, New York, North Dakota, West Virginia, and Wisconsin. These laws differ in their wording, but are all to the general effect that combinations of workingmen, formed for the purpose of seeking increase of wages, etc., are not of themselves unlawful. The Colorado statute, to be found in the Annotated Statutes of 1891, reads as follows:

SECTION 1295. It shall not be unlawful for any two or more persons to unite, or combine, or agree in any manner to advise or encourage, by peaceable means, any person or persons to enter into any combination in relation to entering into or remaining in the employment of any person, persons, or corporation, or in relation to the amount of wages or compensation to be paid for labor, or for the purpose of regulating the hours of labor, or for the procuring of fair and just treatment from employers, or for the purpose of aiding and protecting their welfare and interests in any other manner not in violation of the constitution of this State or the laws made in pursuance thereof: *Provided*, That this act shall not be so construed as to permit two or more persons, by threats of either bodily or financial injury, or by any display of force, to prevent or intimidate any other person from continuing in such employment as he may see fit, or to boycott or intimidate any employer of labor.

The Maryland statute, being part of article 27 of the Code of Public General Laws of 1888, is in the following language:

SECTION 31. An agreement or combination, by two or more persons, to do, or procure to be done, any act in contemplation or furtherance of a trade dispute between employers and workmen shall not be indictable as a conspiracy, if such act, committed by one person, would not be punishable as an offense; nothing in this section shall affect the law relating to riot, unlawful assembly, breach of the peace, or any offense against any person or against property.

The statutes of Minnesota, New Jersey, New York, and North Dakota are substantially like that of Maryland, above (see pages 19, 20, and 21), while the statute of West Virginia, to be found in section 14 on page 997 of the Code of 1891, is confined in its application to the case of mine employees, and reads as follows:

SECTION 14. * * * Nor shall any person or persons, or combination of persons, by force, threats, ménace, or intimidation of any kind, prevent or attempt to prevent from working in or about any mine any person or persons who have the lawful right to work in or about the same, and who desire so to work; but this provision shall not be so construed as to prevent any two or more persons from associating themselves together under the name of Knights of Labor, or any other name they may desire, for any lawful purpose, or from using moral suasion or lawful argument to induce any one not to work in and about any mine.

The statutes of the States of Michigan, Montana, Nebraska, and Wisconsin are simply declarations to the effect that the provisions of their antitrust acts do not apply to combinations of laborers, etc.

That of Montana, section 325 of its Penal Code, is given below as a sample:

SECTION 325. The provisions of this chapter do not apply to any arrangement, agreement, or combination between laborers made with the object of lessening the number of hours of labor, or increasing wages, nor to persons engaged in horticulture or agriculture, with a view of enhancing the price of their products.

The courts of the States of New Jersey and New York, whose statutes, above mentioned, declare in the one case that certain peaceful acts done to deter laborers from working are not unlawful, and in the other case that such acts are not conspiracy, have held in opposition to the courts of Pennsylvania that a court of equity will not interfere by injunction to restrain strikers from committing such acts in the absence of evidence that violence, force, intimidation, or coercion are intended. In all the other States the common-law rule, as given above, is followed.

An organized attempt by employees to coerce an employer into compliance with some demand by combining to abstain from working for him or by compelling others to so abstain or to refrain from having any business relations with him has been called a "boycott," and it is of this boycott that it is usual to speak. A boycott may, however, and frequently has been, imposed by employers upon some other employer of labor for the purpose of forcing him out of business or to coerce him into complying with some demand. It may be said here that all law in this country, both common and statute, which relates to the subject of blacklisting and boycotting applies to all varieties of these offenses.

An effective boycott is probably always illegal under the common law, owing to the nature of the necessary means used to make it effective, viz, force, violence, intimidation, etc.

LEGISLATIVE ACTION.

BLACKLISTING.

Although numerous decisions of the courts, both State and Federal, have invariably held that the use of intimidation, etc., is illegal under the common law, yet many of the States have enacted statutes aimed at the suppression of such practices which either directly or in effect forbid the use of the "blacklist" or "boycott," of intimidation, coercion, force, etc., by either the employer or employee. A large number of States and one Territory have statutes which, in terms, forbid the practice of blacklisting. They are Alabama, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Iowa, Minnesota, Missouri, Montana, Nevada, North Dakota, Oklahoma, Utah, Virginia, and Wisconsin. These statutes are worded quite differently, but all alike tend to one end, the declaring the blacklist to be unlawful, and providing a

penalty for the use of the same. The statutes of all the States appearing in the above list, except Florida, Georgia, and Virginia, affect all classes of employers and, generally speaking, forbid the use of the blacklist by "any person." Those of Florida and Georgia apply to corporations only, and that of Virginia provides a penalty for any "corporation, manufacturer, or manufacturing company" using the blacklist. In the statutes of Illinois and Minnesota it is the conspiracy or combination of two or more persons to use the blacklist that is declared unlawful. The Alabama statute, being section 3763 of the Code of Alabama of 1886, as amended by act No. 321, acts of 1894–95, reads as follows:

SECTION 3763 (as amended by act No. 321, acts of 1894–95). Any person who, by threats of violence to person or property, prevents or seeks to prevent another from doing work or furnishing materials for or to any person engaged in any lawful business or who disturbs, interferes with or who shall prevent or attempt to prevent any discharged employee by printing or writing any list containing the name of any employee so discharged or who shall make any sign or token, character or figure, indicating that any discharged employee is upon any list so printed or written or in any other manner prevents or attempts to prevent the peaceful exercise of any lawful industry, business or calling by any other person, must, on conviction, be fined not less than ten nor more than five hundred dollars, and may also be imprisoned in the county jail or sentenced to hard labor for not more than twelve months.

The statute of Colorado, which comprises two sections of chapter 15 of the Annotated Statutes of 1891, is given below:

SECTION 239. No corporation, company, or individual shall blacklist or publish, or cause to be blacklisted or published, any employee, mechanic, or laborer discharged by such corporation, company, or individual, with the intent and for the purpose of preventing such employee, mechanic, or laborer from engaging in or securing similar or other employment from any other corporation, company, or individual.

SEC. 240. If any officer or agent of any corporation, company, or individual, or other person, shall blacklist, or publish, or cause to be blacklisted or published, any employee, mechanic, or laborer discharged by such corporation, company, or individual, with the intent and for the purpose of preventing such employee, mechanic, or laborer from engaging in or securing similar or other employment from any other corporation, company, or individual, or shall in any manner conspire or contrive, by correspondence or otherwise, to prevent such discharged employee from securing employment, he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than fifty (50) nor more than two hundred and fifty (250) dollars, or be imprisoned in the county jail not less than thirty nor more than ninety days, or both.

Although, as has before been noted, this statute seems to include within its prohibition all classes of employers, yet the legislature of Colorado seems to have considered it necessary to enact another law, which, while still general in its application to employers, yet places

emphasis upon railroad and telegraph companies in connection with such prohibition. Said statute, being part of chapter 31 of the acts of 1897, is as follows:

SECTION 1. Any railroad or telegraph company, or any officer, agent, or employee of any railroad or telegraph company, or any other company, corporation, or individual doing business within the State of Colorado, shall not issue, circulate, or publish, or cause to be issued, circulated, or published, any blacklist, circular, or other statement regarding any person or persons who may have been in the employ of any of the above-mentioned railroads, telegraph or other companies, corporations, or individuals, which will deprive said person or persons of or in any way prevent them from obtaining employment.

SEC. 2. Any dismissed employee shall on demand be furnished by the aforesaid employer of said dismissed employee specific reasons in writing for said dismissal: *Provided*, That no person or corporation shall be held liable either civilly or criminally for any such reasons so given upon such request.

SEC. 4. Any violation of this act shall be a misdemeanor and punishable by fine of not less than five hundred (500) dollars nor more than one thousand (1,000) dollars, or imprisonment not less than sixty (60) days nor more than one year, or both fine and imprisonment, at the discretion of the court.

The second section of this act contains a provision designed to prevent the making by the employer of untruthful statements to third parties as to the cause of the discharge of the employee. A similar provision is found in the statutes of several of the other States in the above list, and in one case at least—that of Georgia—it has been declared unconstitutional, as will appear below. The law of Connecticut, but recently passed, is to be found in chapter 184, acts of 1897, in the following language:

Every employer who shall blacklist an employee with intent to prevent such employee from procuring other employment shall, upon conviction, be fined not more than two hundred dollars.

The statute of Florida, chapter 4207, acts of 1893, and that of Georgia, act No. 290, acts of 1890–91, page 183, are practically identical, and that of Georgia only is given here:

SECTION 1. If any railroad corporation or company or other corporation doing business in this State, or any agent or employer of any such company or corporation, after having discharged any employee from the service of any such company or corporation, shall prevent or attempt to prevent by word, writing, sign, or other means, directly or indirectly, such discharged employee from obtaining employment with any other person, company, or corporation, such person, agent, employer, company, or corporation shall be guilty of a misdemeanor, and shall be punished by a fine not exceeding five hundred dollars nor less than one hundred dollars, and such person, agent, employer, company, or corporation shall be liable in penal damages to such discharged person, to be recovered by civil action; but this section shall not be construed as prohibiting any person, agent, employer, company, or corporation from giving in writing any other person, com-

pany, or corporation to whom such discharged person has applied for employment a truthful statement of the reasons of such discharge, and shall furnish to such discharged employee on his application, to such address as may be given by such discharged employee, within ten days of such application made as aforesaid, a true copy of any such written statement.

SEC. 2. If any railroad or railway company or corporation, or other corporation, doing business in this State shall authorize or permit, with its knowledge and consent, any of its or their officers, agents, or employers to commit either or any of the acts prohibited in this act (except as in this act provided), such railroad or railway company or corporation, or other corporation, shall be liable in treble damages to such employee so prevented from obtaining employment, to be recovered by him in a civil action.

SEC. 3. It shall be the duty of any person, officer, agent, employer, or company or corporation aforesaid, after having discharged any employee from the service of any such corporation or company, upon written demand by such employee, to furnish to him, within ten days from the application for the same, a full statement in writing of the cause or causes of his discharge, and if any such person, officer, agent, employer, or company or corporation as aforesaid shall refuse within ten days after demand as herein provided to furnish such statement to such discharged employee, it shall be ever after unlawful for any such person, company, or corporation to furnish any statement of the cause of such discharge to any person or corporation or to in any way blacklist or to prevent such discharged person from procuring employment elsewhere, subject to the penalties prescribed in section 1 of this act. And on the trial of any person for offending against the provisions of this act, any other person who may have authorized or permitted, with knowledge and consent as aforesaid, any such offense, or who may have participated in the same, shall be a competent witness, and be compelled to give evidence, and nothing then said by such witness shall at any time be received or given in evidence against him in any prosecution against the said witness, except on an indictment for perjury, in any matter to which he may have testified, and on the trial of any such person for any violation of this act, the prosecution shall have the authority and process of the court trying the case to compel the production in court, to be used in evidence in the case, the books and papers of any such person, company, or corporation, and a failure to produce the same, after such reasonable notice as the court may in each case provide, shall be a contempt of court, and punishable as such as against the custodian or person, company, or corporation having the control or in charge of such books and papers, who shall fail to produce the same: *Provided*, That said written cause of discharge, when so made as aforesaid, at the request of such discharged employee, shall never be used as the cause for an action for slander or for libel, either civil or criminal, against the person or authority furnishing the same.

SEC. 4. It shall be the duty of any person, company, or corporation who has received any request or notice in writing, sign, word, or otherwise from any other person, company, or corporation, preventing or attempting to prevent the employment of any person discharged from the service of either of the latter, on demand of such discharged employee, to furnish to such employee, within ten days after such

demand, a true statement of the nature of such request or notice, and if in writing, a copy of the same, and if a sign, the interpretation hereof, with the name of the person, company, or corporation furnishing the same, with the place of business of the person or authority furnishing the same; and a violation of this section shall subject the offender to all the penalties, civil and criminal, provided by the foregoing sections of this act.

SEC. 5. The provisions of this act shall apply to and prevent, under all the penalties aforesaid, railroad companies or corporations, under the same general management and control but having separate divisions, superintendents or master mechanics, master machinists, or similar officers for separate or different lines, their officers, agents, and employers from preventing or attempting to prevent the employment of any such discharged person by any other separate division, or officer, or agent or employer of any such separate railroad line or lines.

Provisions similar to those contained in section 3 of the above act, to the effect that the cause of discharge in writing shall be furnished the discharged employee upon his demand, were contained in an act passed by the Georgia legislature in 1891, which act applied only to railroad, telegraph, express, and electric street-railway companies. The supreme court of the State in a decision rendered in 1894 declared said act to be unconstitutional in that it was a violation of the general private right of silence which is incident to the liberty of speech and writing secured by the constitution. The same reasoning would seem to apply to the provisions of section 3 of this act and the similar provisions contained in the acts of some of the other States of the above list. The statute of Illinois, which is now section 96 of chapter 38 of the Annotated Statutes of 1896, reads, practically in full, as follows:

SECTION 96. If any two or more persons conspire or agree together, or the officers or executive committee of any society or organization or corporation shall issue or utter any circular or edict, as the action of or instruction to its members, or any other persons, societies, organizations, or corporations, for the purpose of establishing a so-called boycott or blacklist, or shall post or distribute any written or printed notice in any place, with the fraudulent or malicious intent wrongfully and wickedly to injure the person, character, business, or employment, or property of another, * * * or to do any illegal act injurious to the public trade, health, morals, police, or administration of public justice, or to prevent competition in the letting of any contract by the State, or the authorities of any counties, city, town, or village, or to induce any person not to enter into such competition, * * * they shall be deemed guilty of a conspiracy; and every such offender, whether as individuals or as the officers of any society or organization, and every person convicted of conspiracy at common law, shall be imprisoned in the penitentiary not exceeding five years, or fined not exceeding $2,000, or both.

The language of this statute is designed to apply in case of the use of the boycott by employees as well as that of the blacklist by employers, and makes those violating its provisions guilty of conspiracy. In

the following sections of the Annotated Statutes of 1894 will be found the law of Indiana upon this subject:

SECTION 7076. If any person, agent, company, or corporation, after having discharged any employee from his or its service, shall prevent, or attempt to prevent, by word or writing of any kind, such discharged employee from obtaining employment with any other person, company, or corporation, such person, agent, or corporation shall be guilty of a misdemeanor, and shall be punished by a fine not exceeding five hundred dollars nor less than one hundred dollars, and such person, agent, company, or corporation shall be liable in penal damages to such discharged person, to be recovered by civil action; but this section shall not be construed as prohibiting any person or agent of any company or corporation from informing in writing any other person, company, or corporation, to whom such discharged person or employee has applied for employment, a truthful statement of the reasons for such discharge.

SEC. 7077 (as amended by chapter 110, acts of 1895). If any railway company or any other company or partnership or corporation in this State shall authorize, allow, or permit any of its or their agents to blacklist any discharged employees, or attempt by words or writing or any other means whatever, to prevent such discharged employee or any employee who may have voluntarily left said company's service from obtaining employment with any other person or company, said company shall be liable to such employee in such sum as will fully compensate him, to which may be added exemplary damages.

SEC. 7078. It shall be the duty of any person, agent, company or corporation, after having discharged any employee from his or its service, upon demand of such discharged employee, to furnish him in writing a full, succinct, and complete statement of the cause or causes of his discharge, and if such person, agent, company, or corporation shall refuse so to do within a reasonable time after such demand, it shall ever after be unlawful for such person, agent, company, or corporation to furnish any statement of the cause of such discharge to any person or corporation, or in any way to blacklist or to prevent such discharged person from procuring employment elsewhere, subject to the penalties prescribed in * * * this act: *Provided*, That said written cause of discharge, when so made by such person, agent, company, or corporation at the request of such discharged employee, shall never be used as the cause for an action for slander or libel, either civil or criminal, against the person, agent, company, or corporation so furnishing the same.

Iowa's statute, now contained in sections 5027 and 5028 of the Code of 1897, is practically the same as the first two sections of the above statute of Indiana; and that of Montana, being sections 3390 to 3392 of the Political Code, is very similar, containing also the provision for the furnishing of the written cause of discharge upon demand. They will, therefore, not be given here. In chapter 174 of the acts of 1895, Minnesota enacted her prohibition of blacklisting as follows:

SECTION 1. It shall be unlawful for any two (2) or more employers or any two (2) or more corporations to combine or to agree to combine or confer together for the purpose of interfering with or pre-

venting any person or persons from procuring employment either by threats, promises, or by circulating or causing to be circulated blacklists, or for the purpose of procuring and causing the discharge of any employee or employees by any means whatsoever.

SEC. 2. No company, corporation, or partnership in this State shall authorize, permit, or allow any of its or their agents to nor shall any of its or their agents blacklist any discharged employee or employees, or by word or writing seek to prevent, hinder, or restrain such discharged employee or any employee who may have voluntarily left such company's or person's service from obtaining employment from any other person or company.

SEC. 3. No person or persons, employer or employers of labor, and no agent or agents, or officer or officers, employee or employees of any corporation or corporations, on behalf of such corporation or corporations, shall require, coerce or compel, demand or influence, any person or persons, employee or employees, laborer, or mechanic to enter into an agreement, either written or verbal, from such person or persons, employee, laborer, or mechanic, nor to join or become or remain a member of any labor organization, as a condition of such person or persons securing employment or continuing in the employment of any such person or persons, employer or employers, corporation or corporations.

SEC. 4. Any person or persons, employer or employers of labor, and any agents, representatives or employees of any person or persons, employer or employers, who shall be guilty of any violation of the provisions of any preceding section of this act shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine not exceeding one hundred (100) dollars or imprisonment in the county jail for a period of not more than ninety (90) days.

SEC. 5. It shall be the duty of the county attorney of any county in which a civil action in the name of the State of Minnesota shall be brought in accordance with the provisions of this act to begin and prosecute all such suits to a termination whenever information is given him by any person that any employer or employers or corporation, or his or its officers, agents or employees have violated any of the provisions of this act.

Section 3 of this statute contains a provision in regard to the coercion of employees not to join, or continue as members of, labor organizations, which is contained in the statutes of a number of the States and which will be mentioned later.

The law of Missouri upon this subject is to be found in an act approved March 27, 1891, as follows:

SECTION 1. Every person who shall, in this State, send or deliver, or shall make or cause to be made, for the purpose of being delivered or sent, or shall part with the possession of any paper, letter, or writing, with or without a name signed thereto, or signed with a fictitious name, or with any letter, mark, or other designation, or shall publish or cause to be published any false statement for the purpose of preventing such other person from obtaining employment in this State or elsewhere, and every person who shall "blacklist" or cause to be "blacklisted" any person or persons, by writing, printing, publishing, or causing the same to be done, the name or any mark or

designation representing the name of any person in any paper, pamphlet, circular, or book, together with any false statement concerning said persons so named, or shall publish that any one is a member of any secret organization, for the purpose of preventing such other person from securing employment, or any person who shall do any of the things mentioned in this section for the purpose of causing the discharge of any person employed by any railroad or other company, corporation, individuals or individual, shall, on conviction, be adjudged guilty of a misdemeanor and punished by a fine not exceeding one thousand dollars, or imprisonment in the county jail, or by both such fine and imprisonment.

Chapter 75 of the acts of Nevada of 1895 reads as follows:

SECTION 1. Any person, association, company, or corporation within this State, or agent, or officer, on behalf of such person, association, company, or corporation, who shall hereafter willfully do anything intended to prevent any person who shall have for any cause left or been discharged from his or its employ from obtaining employment elsewhere in this State, shall be deemed guilty of a misdemeanor, punishable by a fine of not less than fifty ($50) dollars, nor more than two hundred and fifty ($250) dollars for each such offense, or imprisonment in the county jail at the rate of one day for each two ($2) dollars of such fine.

The legislature of North Dakota, in two sections of the Revised Codes of 1895, treated this subject as follows:

SECTION 7041. Every person, corporation, or agent thereof, who maliciously interferes or hinders, in any way, any citizen of this State from obtaining employment or enjoying employment, already obtained, from any other person or corporation, is guilty of a misdemeanor.

SEC. 7042. Every corporation, officer, agent, or employee thereof, and every person of any corporation, on behalf of such corporation, who exchanges with or furnishes or delivers to any other corporation or any officer, agent, employee, or person thereof any "blacklist" is guilty of a misdemeanor.

In section 23 of article 1 and section 212 of article 17 of its constitution, adopted prior to the passage of these sections, North Dakota has the following provisions:

SECTION 23. Every citizen of this State shall be free to obtain employment wherever possible, and any person, corporation or agent thereof, maliciously interfering or hindering in any way, any citizen from obtaining or enjoying employment already obtained, from any other corporation or person, shall be deemed guilty of a misdemeanor.

SECTION 212. The exchange of "blacklists" between corporations shall be prohibited.

This State and Utah, as noted further along, are the only States having constitutional provisions on this subject.

The Territory of Oklahoma, in article 4 of chapter 13, acts of 1897, has passed the following law:

SECTION 1. No company, corporation, or individual shall blacklist or require a letter of relinquishment, or publish, or cause to be pub-

lished, or blacklisted, any employee, mechanic, or laborer discharged from or voluntarily leaving the service of such company, corporation, or individual, with intent and for the purpose of preventing such employee, mechanic, or laborer from engaging in or securing similar or other employment from any other corporation, company, or individual.

SEC. 2. Any person or persons, company, or corporation violating this act shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined in any sum not less than one hundred dollars nor more than five hundred dollars, and any person so blacklisted shall have the right of action to recover damages.

The statute of the State of Utah is practically the same as that of Oklahoma, above, but the penalty imposed differs. It is contained in chapter 6 of the acts of 1896, and reads as below:

SECTION 1. No company, corporation, or individual shall blacklist or publish, or cause to be published or blacklisted, any employee, mechanic, or laborer discharged or voluntarily leaving the service of such company, corporation, or individual with intent and for the purpose of preventing such employee, mechanic, or laborer from engaging in or securing similar or other employment from any other corporation, company, or individual.

SEC. 2. If any officer or agent of any company, corporation, or individual, or other person, shall blacklist, or publish, or cause to be published, any employee, mechanic, or laborer discharged by such corporation, company, or individual with the intent and for the purpose of preventing such employee, mechanic, or laborer from engaging in or securing similar or other employment from any other corporation, company, or individual, or shall in any manner conspire or contrive, by correspondence or otherwise, to prevent such discharged employee from securing employment, he shall be deemed guilty of a felony and, upon conviction, shall be fined not less than five hundred dollars and be imprisoned in the penitentiary not less than sixty days.

Prior to the enactment of the above, Utah, in section 19 of article 12 and section 4 of article 16 of her constitution, adopted the following as law:

SECTION 19. Every person in this State shall be free to obtain employment whenever possible, and any person, corporation, or agent, servant, or employee thereof, maliciously interfering or hindering in any way any person from obtaining or enjoying employment already obtained from any other corporation or person shall be deemed guilty of a crime. The legislature shall provide by law for the enforcement of this section.

SECTION 4. The exchange of blacklists by railroad companies or other corporations, associations, or persons is prohibited.

Chapter 622 of the acts of 1891–92 contains the following legislation of Virginia upon this subject:

SECTION 1. No corporation, manufacturer, or manufacturing company doing business in this State, or any agent or attorney of such corporation, manufacturer, or manufacturing company, after having discharged any employee from the service of such corporation, manufacturer, or manufacturing company, shall willfully and maliciously

prevent or attempt to prevent, by word or writing, directly or indirectly, such discharged employee from obtaining employment with any other person or corporation. For any violation of this section the offender shall be guilty of a misdemeanor, and shall, on conviction thereof, be fined not less than one hundred nor more than five hundred dollars. But this section shall not be construed as prohibiting any corporation, manufacturer, or manufacturing company from giving in writing, on application from any other person or corporation, a truthful statement of the reason for such discharge.

Wisconsin has laid down the law in two sections of the Annotated Statutes of 1889, as follows:

SECTION 4466a. Any two or more persons who shall combine, associate, agree, mutually undertake, or concert together for the purpose of willfully or maliciously injuring another in his reputation, trade, business, or profession by any means whatever, or for the purpose of maliciously compelling another to do or perform any act against his will, or preventing or hindering another from doing or performing any lawful act, shall be punished by imprisonment in the county jail not more than one year, or by fine not exceeding five hundred dollars.

SEC. 4466b (as amended by chapter 240, acts of 1895). 1. It shall be unlawful for any two or more employers of labor, whether it be person, partnership, company, or corporation, to combine or agree to combine for the purpose of preventing any person or persons seeking employment from obtaining the same, or for the purpose of procuring and causing the discharge of any employee or employees, either by threats, promises, or by circulating blacklists, or causing the same to be circulated. 2. If any person, partnership, company, or corporation, after having discharged any employee from his or its service, shall prevent or attempt to prevent such discharged employee from obtaining employment with any other person, partnership, company, or corporation, either by threats, promises, or by blacklisting such discharged employee, and circulating said blacklist, such person, partnership, company, or corporation shall be deemed guilty of a misdemeanor. 3. If any person, partnership, company, or corporation shall authorize, permit, or allow any of its or their agents to blacklist any discharged employee or employees, or any employee or employees who may have voluntarily left the service of such person, partnership, company, or corporation, and to circulate the same, to prevent such employee or employees from obtaining employment from any other person, partnership, company, or corporation, such person, partnership, company, or corporation shall be deemed guilty of a misdemeanor. 4. Any person, partnership, company, or corporation who shall hereafter coerce or compel any person or persons to enter into an agreement not to join or become a member of any labor organization as a condition of such person or persons securing employment, or continuing in the employment of any such person, partnership, company, or corporation, shall be deemed guilty of a misdemeanor. 5. Any person, partnership, company, or corporation violating any of the provisions of the preceding sections [subsections] shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred dollars or more than five hundred dollars; and all fines so collected shall be paid into the treasury of the State of Wisconsin for the use of the common-school fund. 6. Nothing in this act [section] shall

be construed as prohibiting any person, partnership, company, or corporation from giving any other person, company, or corporation to whom such discharged employee has applied for employment, or to any bondsman or surety, a truthful statement of the reasons for such discharge when requested so to do by such employee or person to whom he has applied for employment, or by such bondsman or surety, but it shall be unlawful to give such information with the intent to blacklist, hinder, or prevent such employee from obtaining employment; nor shall anything in this act be construed as prohibiting any person, partnership, company, or corporation from keeping for his or its own information and protection a record showing the habits, character, and competency of his or its employees, and the cause of the discharge or voluntarily quitting of any employee of such employer.

The first section above might apply equally in case of boycotting by employees and in case of blacklisting. Clause 4 of section 4466b, above, relating to coercion of employees to compel them not to join labor organizations, is somewhat out of place in this connection, but will be referred to later on. In construing the above sections the United States circuit court for the eastern district of Wisconsin held they are declaratory of the common law and wholly condemn conspiracies to injure or oppress.

A Federal statute has recently been enacted by Congress which in effect prohibits blacklisting by certain employers. It is contained in chapter 370 of the acts of 1897–98, and the essential parts of it relating to this subject read as follows:

SECTION 1. The provisions of this act shall apply to any common carrier or carriers and their officers, agents, and employees, except masters of vessels and seamen, as defined in section forty-six hundred and twelve, Revised Statutes of the United States, engaged in the transportation of passengers or property wholly by railroad, or partly by railroad and partly by water, for a continuous carriage or shipment, from one State or Territory of the United States or the District of Columbia to any other State or Territory of the United States or the District of Columbia, or from any place in the United States to an adjacent foreign country, or from any place in the United States through a foreign country to any other place in the United States. The term "railroad" as used in this act shall include all bridges and ferries used or operated in connection with any railroad, and also all the road in use by any corporation operating a railroad, whether owned or operated under a contract, agreement, or lease; and the term "transportation" shall include all instrumentalities of shipment or carriage. The term "employees" as used in this act shall include all persons actually engaged in any capacity in train operation or train service of any description, and notwithstanding that the cars upon or in which they are employed may be held and operated by the carrier under lease or other contract: *Provided, however*, That this act shall not be held to apply to employees of street railroads and shall apply only to employees engaged in railroad train service. * * *

SEC. 10. Any employer subject to the provisions of this act, and any officer, agent, or receiver of such employer * * * who shall, after having discharged an employee, attempt or conspire to prevent such

employee from obtaining employment, or who shall, after the quitting of an employee, attempt or conspire to prevent such employee from obtaining employment, is hereby declared to be guilty of a misdemeanor, and, upon conviction thereof in any court of the United States of competent jurisdiction in the district in which such offense was committed, shall be punished for each offense by a fine of not less than one hundred dollars and not more than one thousand dollars.

BOYCOTTING.

The States of Colorado and Illinois have passed laws which in direct terms forbid boycotting. The Colorado statute, being part of chapter 31 of the acts of 1897, is in the language following:

SECTION 3. It shall be unlawful for any person or persons, or combination of persons, or society, or union, to establish or institute, or engage in a boycott against any individual, firm, or corporation carrying on any kind of trade or business, by agreeing not to patronize, trade, or do business with any such individual, firm, or corporation, or to induce others not to so patronize, trade, or do business with any such individual, firm, or corporation.

SEC. 4. Any violation of this act shall be a misdemeanor and punishable by fine of not less than five hundred (500) dollars nor more than one thousand (1,000) dollars, or imprisonment not less than sixty (60) days nor more than one year, or both fine and imprisonment, at the discretion of the court.

The statute of Illinois has already been recited on page 11.

Few, if any, cases under the above blacklisting and boycotting statutes appear to have come before the courts. At the present time but three cases hinging on the legality of a blacklist are available, and these were all decided under the principle of the common law in States having no statute law upon the subject. These cases simply upheld the right of a blacklisted employee to recover damages for the deprivation of employment caused by the blacklist and did not touch upon the question of the criminal liability of the blacklisting employer.

While no decisions can be found construing the above statutes of Colorado and Illinois, which directly forbid the use of the boycott, yet there are many decisions in the reports which relate to boycotting, but which were made in cases arising under the conspiracy laws of the States or under those laws which, while not forbidding boycotting in terms, do forbid the use of threats, intimidation, coercion, etc., which make up the illegal features of a boycott.

CONSPIRACY.

The conspiracy laws of a number of the States contain provisions declaring the combining of two or more persons for the purpose of injuring the business of any other person, preventing one from exercising his lawful trade or calling, by force, intimidation, etc., preventing anyone from obtaining employment, causing the discharge of

anyone, etc., to be conspiracy and punishable. The following States have enacted laws of the above nature: Florida, Illinois, Maine, Minnesota, Mississippi, New Jersey, New York, North Dakota, Pennsylvania, South Dakota, and Wisconsin. The Florida statute, contained in chapter 4144, acts of 1893, reads as follows:

SECTION 1. If two or more persons shall agree, conspire, combine, or confederate together for the purpose of preventing any person or persons from procuring work in any firm or corporation, or to cause the discharge of any person or persons from work in such firm or corporation, or if any person or persons shall verbally or by a written or printed communication threaten any injury to the life, property, or business of any person for the purpose of procuring the discharge of any workman in any firm or corporation, or to prevent any person or persons from procuring work in such firm or corporation, such person or persons so combining shall be deemed guilty of a misdemeanor, and upon conviction [thereof] shall be punished by fine not exceeding five hundred dollars each or by imprisonment not exceeding one year.

The language of this section is such as to, apparently, equally prohibit blacklisting with boycotting or any other means of keeping a laborer from obtaining employment. The statute of Illinois has already been noted on page 11, and that of Maine, being section 18 of chapter 126 of the Revised Statutes of 1883, is in the following language:

SECTION 18. If two or more persons conspire and agree together, with the fraudulent or malicious intent wrongfully and wickedly to injure the person, character, business, or property of another; or to do any illegal act injurious to the public trade, * * * they are guilty of a conspiracy, and every such offender, and every person convicted of conspiracy at common law, shall be punished by imprisonment for not more than three years, or by fine not exceeding one thousand dollars.

These two latter statutes are practically the same excepting a difference in the penalties prescribed and the fact that the words boycott or blacklist are not in the Maine statute. In a case arising under the Illinois statute, heard in the criminal court of Cook County, it was held that the words "wrongfully and wickedly" are to be understood as meaning the use of means in themselves wrongful and wicked independently of combination, and that if the means used to accomplish the desired end are criminal or constitute an actionable civil wrong they must be regarded as wrongful and wicked under the statute, otherwise not. The wording of the conspiracy statute of Minnesota, which is contained in the General Statutes of 1894, is as follows:

SECTION 6423. If two or more persons conspire, either

* * * * * * *

5. To prevent another from exercising a lawful trade or calling, or doing any other lawful act, by force, threats, intimidation, or by interfering or threatening to interfere, with tools, implements, or

property belonging to or used by another, or with the use or employment thereof; or

6. To commit any act injurious to the public health, to the public morals, or to trade or commerce, or for the perversion or obstruction of justice, or of the due administration of the laws—

Each of them is guilty of a misdemeanor.

SEC. 6424. No conspiracy is punishable criminally unless it is one of those enumerated in the last section, and the orderly and peaceable assembling or cooperation of persons employed in any calling, trade, or handicraft, for the purpose of obtaining an advance in the rate of wages or compensation, or of maintaining such rate, is not a conspiracy.

SEC. 6425. No agreement, except to commit a felony upon the person of another, or to commit arson or burglary, amounts to a conspiracy, unless some act besides such agreement be done to effect the object thereof by one or more of the parties to such agreement.

The statutes of Mississippi (sec. 1006, Annotated Code of 1892), New York (secs. 168 to 170, Penal Code), North Dakota (sec. 7037, Revised Codes of 1895), and South Dakota (sec. 6425, Compiled Laws of 1887), are to all intents identical with that of Minnesota, above, except that those of Mississippi and South Dakota do not contain provisions similar to those of section 6424, above.

In cases arising under the New York statute the court of appeals, the highest court of the State, has held that a peaceable withdrawal from employment, commonly called a strike, however extensive, for the purpose of obtaining an advance in the rate of wages or of maintaining such rate, is not an offense against its provisions; that a combination which brings about a strike for unlawful purposes is a criminal conspiracy; that the unlawful purpose of a strike may be evidenced by force, threats, or intimidation to prevent another from exercising a lawful trade or calling; that section 170 of the Penal Code, which reads as follows: "The orderly and peaceable assembling or cooperation of persons employed in any calling, trade, or handicraft, for the purpose of obtaining an advance in the rate of wages or compensation or of maintaining such rate is not a conspiracy," does not authorize a combination of individuals to compel, by means condemned in section 168 of that code (force, threats, intimidation, etc.), workingmen to join the cooperating forces and to leave their employment or to punish those who are supposed to be hostile to such combination, and that such a combination intended to drive an objectionable person from a certain district and to prevent him from working therein is a criminal conspiracy. The same court has also held that since the passage of section 170, above, an employer is not entitled to an injunction against striking employees for inducing others, by entreaty and persuasion, to leave his employment where no intimidation is used. The supreme court of New York, in a case which seems never to have been appealed to the court of appeals, decided that, as the law stands since the enact-

ment of the above statute, a combination of manufacturers has the right to lock out all operatives connected with an association of employees, because of demands which it considers unjust, made by such association of employees upon a member of the combination of manufacturers, and that such association of employees has an equal right to endeavor to persuade those who have been accustomed to deal with the members of the manufacturers' combination to discontinue their trade. In another case, also unappealed, the supreme court held that since the enactment of section 170 no injunction can be granted against a confederation of persons whose object is to entice away workmen from their employer's employ, in the absence of any sufficient evidence that violence, force, intimidation, or coercion is intended against such workmen; and in another unappealed case the court of oyer and terminer of New York County has held that to constitute intimidation it is not necessary that there should be any overt act of violence, or any direct threat by word of mouth, but that it is enough if the attitude of those engaged in the overt act is intimidating and this, in the case of a strike, may be shown by their numbers, their methods, their placards, their circulars, and their devices. In another similar case the same court held that a combination of men to prevent the exercise of a lawful calling, by congregating near the doors of the person to be injured, by printing circulars descriptive of supposed grievances, and by distributing the same near or about his doors to customers and passers by, is conspiracy under these sections.

The State of New Jersey, in section 236, on page 1093 of the General Statutes of 1895, enacts the following concerning conspiracy:

SECTION 236. If two or more persons shall combine, unite, confederate, conspire, or bind themselves by oath, covenant, agreement, or other alliance to commit any crime, * * * or to cheat and defraud any person of any property by any means which are in themselves criminal, or to cheat and defraud any person of any property by any means which, if executed, would amount to a cheat, * * * or to commit any act for the perversion or obstruction of justice, or the due administration of the laws, they shall, on conviction, be deemed guilty of a conspiracy, and shall be punished by imprisonment at hard labor not exceeding two years, or by a fine not exceeding five hundred dollars, or both; but no agreement to commit any crime other than murder, manslaughter, sodomy, rape, arson, burglary, or robbery, shall be deemed a conspiracy, unless some act in execution of such agreement be done to effect the object thereof by one or more of the parties to such agreement: *Provided*, That nothing in this section shall be construed to apply to any person or persons lawfully and by peaceful means persuading, advising, or encouraging other persons to enter into any combination for or against leaving or entering into the employment of other persons.

In a case heard in 1867 the supreme court of New Jersey decided that it was an indictable conspiracy under this statute for several employees to combine and notify their employer that unless he dis-

charges certain enumerated persons they will, in a body, quit his employment. Subsequent to that date the legislature passed a law which appears below, in its present form, as section 23, page 2344 of the General Statutes of 1895:

SECTION 23. It shall not be unlawful for any two or more persons to unite, combine, or bind themselves by oath, covenant, agreement, alliance, or otherwise, to persuade, advise, or encourage, by peaceable means, any person or persons to enter into any combination for or against leaving or entering into the employment of any person, persons, or corporation.

This law has been alluded to before in this article, on page 6, and appears, on its face, to nullify the effect of the decision of the supreme court above mentioned. The chancery court of New Jersey held in a case decided in 1890 that since the enactment of the above section it is not unlawful for members of an association to combine together for the purpose of securing the control of the work connected with their trade, and to endeavor to effect such purpose by peaceable means; also that a court will not interfere by injunction to restrain the acts of an association of persons, even though said acts may be detrimental to trade and injurious to individual business, when the acts are such as are declared by the above statute to be not unlawful.

The Pennsylvania statute has been previously quoted in another connection, on page 4. In cases arising under the same, the courts of the State have decided that members of trade unions who engage in a strike and notify other members to strike can not be held for a conspiracy unless they hinder the others from working by using force, threats, or menaces; and that while these sections would relieve strikers from criminal penalties for the commission of many acts tending to prevent other laborers from working, said acts not amounting to force, intimidation, etc., yet they did not make such acts lawful, and a court of equity would issue an injunction against them in a proper case.

In her statute prohibiting blacklisting, shown on page 16, Wisconsin practically includes a conspiracy law, and makes the last in the list of the States having such legislation.

The Federal statutes on conspiracy are rather differently worded than any of the preceding, and were evidently not directed primarily at cases arising from labor disputes or controversies. They are contained in the following sections of the Revised Statutes of 1878:

SECTION 5440. If two or more persons conspire either to commit any offense against the United States or to defraud the United States in any manner or for any purpose, and one or more of such parties do any act to effect the object of the conspiracy, all the parties to such conspiracy shall be liable to a penalty of not less than one thousand dollars and not more than ten thousand dollars, and to imprisonment not more than two years.

SEC. 5508. If two or more persons conspire to injure, oppress, threaten, or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or if two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, they shall be fined not more than five thousand dollars and imprisoned not more than ten years; and shall, moreover, be thereafter ineligible to any office, or place of honor, profit, or trust created by the Constitution or laws of the United States.

While section 5508 seems by its terms to be applicable in any case where an employee is kept from work by the use of intimidation, etc., it does not appear that it has been considered by the courts in this connection. All cases of this character which involve the element of conspiracy seem to have been considered in the Federal courts as coming within the provisions of section 5440, above, and involving conspiracy against the United States, and all the decisions which can be found treat this question of conspiracy under said section in connection with the violation of some other statute or statutes of the United States, such as that directed at the obstruction of the United States mails, the antitrust act, and the interstate-commerce act. That statute which prohibits the obstruction of the mail is section 3995 of the Revised Statutes of the United States, and reads as follows:

SECTION 3995. Any person who shall knowingly and willfully obstruct or retard the passage of the mail, or any carriage, horse, driver, or carrier carrying the same, shall, for every such offense, be punishable by a fine of not more than one hundred dollars.

In strikes by railroad employees, of which many have occurred in this country, efforts are usually made by the strikers or their sympathizers, or both, to prevent the operation of trains by new men. To accomplish this purpose many means are resorted to, as persuasion, threats, force, and violence, directed against the new employees, and the use of violence in destroying or injuring the cars, engines, or roadbeds of the railroad company. Should their efforts in this direction prove at all successful, and the railroad company find it impossible to operate the road with a new set of employees, it is plain that it will, in time, be likely to yield, at least in part, to the demands of the striking employees, in order, by getting them back, to be able to resume business. If, however, the employees do succeed in stopping the movement of trains as above, in so doing it is probable that they will also obstruct the movement of the mails and bring themselves in conflict with the provisions of the above statute or with those of the interstate-commerce or antitrust acts mentioned below.

The interstate-commerce act, originally chapter 104 of the acts of 1886–87, second session Forty-ninth Congress, in its present form, as

amended since its passage, forbids many practices which would tend to prevent the free conduct of commerce between the States. While the act has other provisions, for the present purpose it is not necessary to describe it more in detail or to attempt to present the act itself. The antitrust act, being chapter 647 of the acts of Congress of 1889–90, and approved July 2, 1890, is designed for the prevention of trusts and monopolies. Sections 1 and 3 of the act are all that it is essential to show or discuss in this connection. They are as follows:

SECTION 1. Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is hereby declared to be illegal. Every person who shall make any such contract or engage in any such combination or conspiracy shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding five thousand dollars, or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

SEC. 3. Every contract, combination in form of trust or otherwise, or conspiracy, in restraint of trade or commerce in any Territory of the United States or of the District of Columbia, or in restraint of trade or commerce between any such Territory and another, or between any such Territory or Territories and any State or States or the District of Columbia, or with foreign nations, or between the District of Columbia and any State or States or foreign nations, is hereby declared illegal. Every person who shall make any such contract or engage in any such combination or conspiracy shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding five thousand dollars, or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

In the consideration of the above Federal statutes in their effect upon the actions of those who are endeavoring for one reason or another to prevent workmen from obtaining or retaining employment the Federal courts have made many decisions. They have held that while the statutes above mentioned, other than the act on conspiracy, provide penalties to be imposed on those violating these provisions, yet the law on conspiracy, as expressed in section 5440, above, regards the act of unlawful combination and confederacy to commit such offenses as requiring an additional restraint to those provided for the commission of the offenses themselves; that section 5440 applies to conspiracies that affect private rights or interests which are protected by the criminal laws of the United States; that a combination to incite all railway employees to suddenly quit their service, without any dissatisfaction with the terms of their own employment, in order to starve the railroad companies and the public into compelling an owner of cars used in operating the road to pay his employees more wages, and when the members intend to stop all mail trains as well as other trains, and do delay many, in violation of section 3995, Revised Statutes, is an unlawful conspiracy under section 5440, although the obstruction is effected by merely quitting employment; that it is a violation of section 3995 for

one to prevent the running of a mail train as made up, even though he is willing that the mail car alone shall go on and his purpose is other than to retard the mails; that where the transportation of the mails and interstate commerce has been long interrupted by the refusal of the employees of a railroad company to move trains carrying Pullman cars it is the duty of the railroad company to use every effort to move the mails and interstate commerce, and any willful failure to perform this duty is a violation of section 3995; that although section 3995 was originally passed prior to the introduction into the United States of the method of transporting mail by railroads, yet it is equally applicable to the modern system of conveyance, and protects alike the transportation of the mail by the "limited express" and the old-fashioned stage coach; that an agreement between two or more persons that employees of railroads carrying the mails and conducting interstate commerce should quit work, and that all others should, by threats and violence, be prevented from taking their places, constitutes a criminal conspiracy under the above statutes; that when two or more members of a labor association, for the purpose of advancing personal ambition or satisfying private malice, by concert insist upon or demand, under effective penalties and threats, the members of the association quitting their employment, to the obstruction of the mails or of interstate commerce, they are guilty of criminal conspiracy, and that where two or more men agree among themselves, either for the purpose of creating sympathy in a certain strike or for any other purpose, to cause trains carrying mails or interstate commerce to be stopped, or to discharge their employees or refuse to employ new men, so as to stop such trains, they are guilty of conspiracy under these acts.

In the case of United States *v.* Cassidy, decided in 1895, the district court of the United States for the northern district of California held in accordance with the following, quoted from the syllabus of the case:

The word "commerce," as used in the act of July 2, 1890 [anti-trust act], to protect trade and commerce against unlawful restraints and monopolies, and in the Constitution of the United States, has a broader meaning than the word "trade." Commerce among the States consists of intercourse and traffic between their citizens, and includes the transportation of persons and property as well as the purchase, sale, and exchange of commodities.

While the primary object of the statute of July 2, 1890, was doubtless to prevent the destruction of legitimate and healthy competition in interstate commerce by the engrossing and monopolizing of the markets for commodities, yet its provisions are broad enough to reach a combination or conspiracy that will interrupt the transportation of such commodities and persons from one State to another.

Pullman cars in use upon railroads are instrumentalities of commerce.

The employees of railway companies have a right to organize for mutual benefit and protection and for the purpose of securing the

highest wages and the best conditions they can command. They may appoint officers, who shall advise them as to the course to be taken in their relations with their employer, and they may, if they choose, repose in their officers authority to order them, or any of them, on pain of expulsion from their union, peaceably to leave the employment because the terms thereof are unsatisfactory. But it is unlawful for them to combine and quit work for the purpose of compelling their employer to withdraw from his relations with a third party, for the purpose of injuring that third party.

A strike, or a preconcerted quitting of work, by a combination of railroad employees, is, in itself, unlawful, if the concerted action is knowingly and willfully directed by the parties to it for the purpose of obstructing and retarding the passage of the mails, or in restraint of trade and commerce among the States.

A quotation from the syllabus of the decision in the case of Waterhouse et al. *v.* Cromer, decided in 1893 by the circuit court of the United States for the western district of Georgia, southern division, reads as follows:

Construing section 1 of the act of July 2, 1890 [chap. 647, acts of 1889–90, antitrust act], the act of February 4, 1887 [chap. 104, acts of 1886–87, interstate-commerce act], and the act of March 7, 1889 [amending the interstate-commerce act], together with this section [5440], it will be seen that a combination of persons, without regard to their occupation, which will have the effect to defeat the provisions of these acts inhibiting discriminations in the transportation of freight and passengers, and to restrain the trade and commerce of the country will be obnoxious to the penalties contained in this section. Now, it is true that in any conceivable strike upon the transportation lines of this country, whether main lines or branch roads, there will be interference with and restraint of interstate or foreign commerce. This will be true also of strikes upon telegraph lines, for the exchange of telegraphic messages between people of different States is interstate commerce. In the presence of these statutes, and in view of the intimate interchange of commodities between people of several States of the Union, it will be practically impossible hereafter for a body of men to combine to hinder and delay the work of the transportation company without becoming amenable to the provisions of these statutes. And a combination or agreement of railroad officials or other representatives of capital, with the same effect, will be equally under the ban of the penal statutes. It follows, therefore, that a strike, or boycott, if it was ever effective, can be so no longer.

Many more such decisions could be noted, but the above sufficiently shows the effect that the statutes cited and their enforcement may have in protecting the laborer or workman desirous of obtaining or retaining employment.

INTIMIDATION, COERCION, ETC.

In addition to the conspiracy laws, State and Federal, as shown and discussed above, numerous statutes exist forbidding the use of threats, intimidation, coercion, etc., in efforts made to compel others to do or not to do acts which they have the legal right to do or to abstain

from doing. These laws undoubtedly apply in all cases of boycotting where intimidation, etc., is used, and under some, at least, of them, as also under the conspiracy laws last discussed, it would seem from their language that employers guilty of blacklisting might be prosecuted. It is not known, however, that any such case has arisen or been decided in the courts. Said statutes have frequently been held to apply to employees engaged in strikes when attempting to use the boycott and to prevent the employment of new men. The States having such laws are: Alabama, Colorado, Connecticut, Georgia, Illinois, Kentucky, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New York, North Dakota, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Texas, Vermont, West Virginia, and Wisconsin.

Alabama's law on this subject is contained in section 3763 of the code of 1886, as amended by act No. 321, acts of 1894–95, a statute which also prohibits blacklisting and has been shown on page 8; that of Colorado in section 1295 of the Annotated Statutes of 1891, to be found on page 6; that of Pennsylvania in section 73, on page 484 of the Digest, edition of 1895, recited on page 4, and that of West Virginia is quoted on page 6. In the statutes of Colorado and Pennsylvania the prohibition against intimidation is indirect, but none the less plainly intended, and in a case arising under the statute of Pennsylvania the court held that while strikers may legally organize themselves and use persuasive means to get others to join them and to quit work, it is a criminal offense to attempt to gain their point by the slightest use of force or intimidation or unlawful threats or menaces of harm to persons or property. The statute of West Virginia is confined in its application to the case of coal-mine employees.

The Connecticut statute, found in the General Statutes of 1888, reads as follows:

SECTION 1518. Every person who shall threaten, or use any means to intimidate any person to compel such person, against his will, to do or abstain from doing any act which such person has a legal right to do, or shall persistently follow such person in a disorderly manner, or injure, or threaten to injure, his property with intent to intimidate him, shall be fined not more than one hundred dollars, or imprisoned not more than six months.

This statute is the only one of this kind, among all those passed by the States above enumerated, which is so general in its terms and does not directly prohibit the attempt to keep anyone from employment by the use of intimidation, etc. The supreme court of the State, however, has held that a conspiracy of workmen to intimidate the publishers of a newspaper, to compel said publishers to discharge against their will certain of their workmen, and to employ the conspirators in their place, falls within the prohibition of this section.

The Georgia statute upon this subject, found on page 107 of the acts of 1887, and denominated act No. 347, is as follows:

SECTION 1. If any person or persons, by threats, violence, intimidation, or other unlawful means, shall prevent or attempt to prevent any person or persons in this State from engaging in, remaining in, or performing the business, labor, or duties of any lawful employment or occupation; or if any person or persons, singly or together, or in combination, shall conspire to prevent or attempt to prevent any person or persons by threats, violence, or intimidation from engaging in, remaining in, or performing the business, labor, or duties of any lawful employment or occupation; or if any person or persons, singly or by conspiring together, shall hinder any person or persons who desire to labor from so doing, or hinder any person by threats, violence, or intimidation from being employed as laborer or employee, or by the means aforesaid shall hinder the owner, manager, or proprietor for the time being from controlling, using, operating, or working any property in any lawful occupation, or shall by such means hinder such persons from hiring or employing laborers or employees, such person or persons so offending shall be deemed guilty of a misdemeanor, and on conviction be punished as prescribed in section 4310 of the Code of Georgia.

Section 4310, referred to in the above act, is in the following language:

SECTION 4310. Accessories after the fact, except where it is otherwise ordered in this code, shall be punished by a fine not to exceed one thousand dollars, imprisonment not to exceed six months, to work in the chain gang on the public works, or on such other works as the county authorities may employ the chain gang, not to exceed twelve months, and any one or more of these punishments may be ordered in the discretion of the judge: *Provided*, That nothing herein contained shall authorize the giving the control of convicts to private persons, or their employment by the county authorities in such mechanical pursuits as will bring the products of their labor into competition with the products of free labor.

The Illinois statute, to be found in chapter 38 of the Annotated Statutes of 1896, is in words as follows:

SECTION 294. If any two or more persons shall combine for the purpose of depriving the owner or possessor of property of its lawful use and management, or of preventing, by threats, suggestions of danger, or any unlawful means, any person from being employed by or obtaining employment from any such owner or possessor of property, on such terms as the parties concerned may agree upon, such persons so offending shall be fined not exceeding $500, or confined in the county jail not exceeding six months.

SEC. 295. If any person shall, by threat, intimidation or unlawful interference, seek to prevent any other person from working or from obtaining work at any lawful business, on any terms that he may see fit, such person so offending shall be fined not exceeding $200.

SEC. 296. Whoever enters a coal bank, mine, shaft, manufactory, building, or premises of another, with intent to commit any injury thereto, or by means of threats, intimidation, or riotous or other unlaw-

ful doings, to cause any person employed therein to leave his employment, shall be fined not exceeding $500, or confined in the county jail not exceeding six months, or both.

Illinois has enacted another statute directed against intimidation, etc., but applying only to railroad companies, in section 129 of chapter 114 of the Annotated Statutes of 1896. Said statute appears on page 40, under another head.

The only statute of Kentucky upon this subject applies in the case of intimidation, etc., used against those engaged in the transportation of passengers and freight. It is contained in section 803 of chapter 32 of the Statutes of 1894, and is published on page 41.

The Revised Laws of Louisiana contains the statute law of that State relative to intimidation, which applies only to the coercion, etc., of employees on steamboats. It appears below:

SECTION 944. Any person or persons who may, by violence or threats or in any manner intimidate and prevent another from shipping upon any steamboat within this State, or who shall thus interfere with or prevent any person who is one of the crew of a steamboat from discharging his or her duty, or unlawfully interfere with any laborer who may be taking on board or discharging cargo from a steamboat within the State of Louisiana, shall be deemed guilty of a misdemeanor, and, upon conviction before any justice of the peace of this State or recorder of the city of New Orleans, be fined not less than twenty dollars and costs of prosecution, and imprisoned not less than twenty days in the parish jail.

The State of Maine has enacted two statutes upon this subject, one being section 9 of chapter 123 of the Revised Statutes of 1883, and the other section 1 of chapter 303, acts of 1889. They both appear below:

SECTION 9. Whoever, alone, or in pursuance or furtherance of any agreement or combination with others, to do, or procure to be done, any act in contemplation or furtherance of a dispute or controversy between a gas, telegraph, or railroad corporation and its employees or workmen, wrongfully and without legal authority, uses violence towards, or intimidates any person, in any way or by any means, with intent thereby to compel such person against his will to do, or abstain from doing, any act which he has a legal right to do or abstain from doing; or, on the premises of such corporation, by bribery, or in any manner or by any means, induces, or endeavors or attempts to induce such person to leave the employment and service of such corporation with intent thereby to further the objects of such combination or agreement; or in any way interferes with such person while in the performance of his duty; or threatens or persistently follows such person in a disorderly manner, or injures or threatens to injure his property with either of said intents, shall be punished by fine not exceeding three hundred dollars, or imprisonment not exceeding three months.

SECTION 1 (as amended by chapter 127, acts of 1891). Any employer, employee, or other person, who, by threats of injury, intimidation or

force, alone or in combination with others, prevents any person from entering into, continuing in, or leaving the employment of any person, firm or corporation, shall be punished by imprisonment not more than two years, or by fine not exceeding five hundred dollars.

The statute of Massachusetts, being sections 2 and 78 of chapter 508 of the acts of 1894, reads as follows:

SECTION 2. No person shall, by intimidation or force, prevent or seek to prevent a person from entering into or continuing in the employment of any person or corporation.

SEC. 78. Any person violating any provision of this act where no special provision as to the penalty for such violation is made shall be punished by fine not exceeding one hundred dollars.

The statute of Michigan, to be found as section 11343 of the Compiled Laws of 1897, appears below:

SECTION 11343. If any person or persons shall, by threats, intimidations, or otherwise and without authority of law, interfere with, or in any way molest, or attempt to interfere with, or in any way molest or disturb, without such authority, any mechanic or other laborer, in the quiet and peaceable pursuit of his lawful avocation, such person or persons shall be deemed guilty of a misdemeanor, and on conviction by a court of competent jurisdiction, shall be severally punished by a fine of not less than ten dollars, nor more than one hundred dollars, or by imprisonment in the county jail where the offense shall have been committed, not less than one month nor more than one year, or by both fine and imprisonment, in the discretion of the court; but if such punishment be by fine, the offender shall be imprisoned in such jail until the same be paid, not exceeding ninety days.

In a case in Michigan, where the question of amending an injunction issued against some striking workmen to prevent them from doing certain acts in furtherance of a "boycott" against a firm of employers was under consideration, the supreme court of the State decided that the distribution of circulars containing the words "Boycott Jacob Beck and Sons," and the "picketing" of the employers' premises by stationing their men on the streets near said premises, following the employers' teamsters, intercepting the customers, and trying to keep them from purchasing, etc., to be intimidation under this law. The court said in part: "The right to trade and the personal liberty of the employer are not alone involved in this case; the right of the laborer to sell his labor where, to whom, and for what price he chooses is involved. The law does not permit either party to use force, violence, threats of force or violence, intimidation, or coercion. When these defendants went * * * distributing these circulars * * * they intended, in emphatic manner, to convey to the customers of complainants that they would be treated in like manner unless they ceased to trade with complainants. * * * It would be idle to argue that these circulars were not intended as a menace, intimidation, and coercion. They were so used and were a standing menace to every-

one who wished to work for, or trade with, complainants. To picket complainants' premises in order to intercept their teamsters or persons going there to trade is unlawful. It itself is an act of intimidation, and an unwarrantable interference with the right of free trade."

In section 6790 of the General Statutes of 1894 the statute of Minnesota appears and is couched in language as follows:

SECTION 6790. A person who, with a view to compel another person to do or abstain from doing an act which such other person has a legal right to do or to abstain from doing, wrongfully and unlawfully

* * * * * * *

2. Deprives any such person of any tool, implement, or clothing, or hinders him in the use thereof; or,

3. Uses or attempts the intimidation of such person by threats or force;

Is guilty of a misdemeanor.

The statute of New York, being section 653 of the Penal Code, is in exactly the same words as the Minnesota statute, above, and will therefore not be given here. In a case heard in the court of general sessions of New York County in 1886, and which does not appear to have ever gone before a higher court, it was held that when certain parties had conspired, etc., by force, threats, and intimidation to prevent and hinder a certain firm from exercising its lawful trade and calling, and in pursuance of said conspiracy had attempted and endeavored by threats, threatening notices, etc., to intimidate certain servants of the firm and to induce and constrain them against their own free will and good judgment to quit their said employment and to refuse to do and perform the work, labor, and duties thereof, and assaulted, beat, and wounded said servants with intent to intimidate, coerce, and constrain them; and by watching and besetting the shop, distributing handbills and printed circulars, etc., they attempted to intimidate persons who desired to trade in the shop and keep them from so doing, such acts constitute the crimes of conspiracy and coercion under sections 168 and 653 of the Penal Code.

In section 1 of chapter 70 of the acts of 1898 Mississippi enacted the following statute upon this subject:

SECTION 1. Any person or persons who shall, by placards or other writing, or verbally, attempt by threats, direct or implied, of injury to the person or property of another, to intimidate such other person into an abandonment or change of home or employment, shall, upon conviction, be fined not exceeding $500, or imprisoned in the county jail not exceeding six months, or in the penitentiary not exceeding five years, as the court, in its discretion, may determine.

Missouri, by the following section of the Revised Statutes of 1889, expressed the judgment of her legislators in regard to this point as follows:

SECTION 3783. Every person who shall, by force, menace, or threats of violence to the person or property of another, compel or attempt to

compel any person to abandon any lawful occupation or employment for any length of time, or prevent or attempt to prevent any person from accepting or entering upon any lawful employment, shall, upon conviction, be punished by imprisonment in the county jail not less than six months, or by a fine of not less than one hundred dollars, or by both such fine and imprisonment. Every person who shall, by threats of violence to the person or property of another, compel or attempt to compel any person to abandon any lawful occupation or employment for any length of time, or prevent any person from accepting or entering upon any lawful employment, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine not less than fifty dollars, or imprisonment in the county jail not less than three months, or by both such fine and imprisonment.

In a decision rendered in 1895, in a case where application was made for the issuance of an injunction directed against the acts of certain striking employees, the supreme court of Missouri in laying down the law said: "They [the strikers] are free men and have a right to quit the employ of the plaintiff whenever they see fit to do so, and no one can prevent them; * * *. And they have a right to use fair persuasion to induce others to join them in their quitting. But when fair persuasion is exhausted, they have no right to resort to force or threats of violence. The same law which guarantees them in their right to quit the employment * * * at their own will and pleasure also guarantees the other employees the right to remain in the employment at their will and pleasure."

The New Hampshire statute, part of chapter 266 of the Public Statutes of 1891, reads as follows:

SECTION 12. If any person shall interfere in any way whatever to injure or damage another in his person or property, while engaged in his lawful business, trade, or occupation, or while on the way to or from the same, or shall endeavor to prevent any person from engaging in his lawful business, trade, or calling, he shall be fined not exceeding five hundred dollars, or be imprisoned not exceeding one year.

Two sections of the Revised Codes of North Dakota of 1895 contain the statute of that State, as follows:

SECTION 7660. Every person who, by any use of force, threats, or intimidation, prevents or endeavors to prevent any hired foreman, journeyman, apprentice, workman, laborer, servant, or other person employed by another from continuing or performing his work, or from accepting any new work or employment, or to induce such hired person to relinquish his work or employment, or to return any work he has in hand before it is finished, is guilty of a misdemeanor.

SEC. 7661. Every person who, by any use of force, threats, or intimidation, prevents or endeavors to prevent another from employing any person, or to compel another to employ any person, or to force or induce another to alter his mode of carrying on business, or to limit or increase the number of his hired foremen, journeymen, apprentices, workmen, laborers, servants, or other persons employed by him, or their rate of wages or time of service, is guilty of a misdemeanor.

Oklahoma, in two paragraphs of the Statutes of 1893, has embodied its statutory provisions upon the subject. They are as follows:

PARAGRAPH 2544. Every person who, by any use of force, threats, or intimidation, prevents or endeavors to prevent any hired foreman, journeyman, apprentice, workman, laborer, servant, or other person employed by another from continuing or performing his work, or from accepting any new work or employment, or induce such hired person to relinquish his work or employment, or to return any work he has in hand before it is finished, is guilty of a misdemeanor.

PAR. 2545. Every person who, by any use of force, threats, or intimidation, prevents or endeavors to prevent another from employing any person, or to compel another to employ any person, or to force or induce another to alter his mode of carrying on business, or to limit or increase the number of his hired foremen, journeymen, apprentices, workmen, laborers, servants, or other persons employed by him, or their rate of wages or time of service, is guilty of a misdemeanor.

Section 1893 of the Annotated Statutes of Oregon of 1892 is the statute passed by that State, and is in the following words:

SECTION 1893. If any person shall, by force, threats, or intimidation, prevent, or endeavor to prevent, any person employed by another from continuing or performing his work, or from accepting any new work or employment; or if any person shall circulate any false written or printed matter, or be concerned in the circulation of any such matter, to induce others not to buy from or sell to or have dealings with any person, for the purpose or with the intent to prevent such person from employing any person, or to force or compel him to employ or discharge from his employment anyone, or to alter his mode of carrying on his business, or to limit or increase the number of his employees or their rate of wages or time of service, such person shall be deemed guilty of a misdemeanor, and on conviction thereof shall be imprisoned in the county jail not more than six nor less than one month, or by fine of not less than ten nor more than two hundred dollars.

In a case heard by the supreme court of Oregon and decided in 1894 it was held that the above section "does not make it unlawful for a trade union, by resolution or order of its executive committee, to require its members, under pain of suspension or expulsion from the union, to quit a person's employ because of his violation of a lawful rule of the union. A conspiracy to injure or destroy a person's business or property is wrongful per se, although not indictable under this statute."

In discussing the meaning of the word "intimidation" as affected by the Pennsylvania statutes appearing on page 4, the supreme court of that State in a decision rendered in 1897 said:

The strikers and their counsel seem to think that the former could do anything to attain their ends, short of actual physical violence. This is a most serious misconception. The "arguments" and "persuasion" and "appeals" of a hostile and demonstrative mob have a potency over men of ordinary nerve which far exceeds the limits of lawfulness. The display of force, though none is actually used, is intimidation, and as much unlawful as violence itself.

The Rhode Island law is contained in the following section of chapter 278 of the General Laws of 1896:

SECTION 8. Every person who, by himself or in concert with other persons, shall attempt by force, violence, threats, or intimidation of any kind to prevent, or who shall prevent any other person from entering upon and pursuing any employment, upon such terms and conditions as he may think proper, shall be deemed guilty of a misdemeanor and be fined not exceeding one hundred dollars or be imprisoned not exceeding ninety days.

The statute of South Dakota is contained in the following sections of the Compiled Laws of 1887:

SECTION 6924. Every person who, by any use of force, threats, or intimidation, prevents or endeavors to prevent any hired foreman, journeyman, apprentice, workman, laborer, servant, or other person employed by another from continuing or performing his work, or from accepting any new work or employment, or to induce such hired person to relinquish his work or employment, or to return any work he has in hand before it is finished, is guilty of a misdemeanor.

SEC. 6925. Every person who, by any use of force, threats, or intimidation, prevents or endeavors to prevent another from employing any person, or to compel another to employ any person, or to force or induce another to alter his mode of carrying on business, or to limit or increase the number of his hired foremen, journeymen, apprentices, workmen, laborers, servants or other persons employed by him, or their rate of wages or time of service, is guilty of a misdemeanor.

Texas included her statutes in chapters 18 and 92 of the acts of 1887, which appear in order below, the first being general in its application, and the second applying only in the case of intimidation of railroad employees:

SECTION 1. Any person who shall, by threatening words, or by acts of violence or intimidation, prevent or attempt to prevent another from engaging or remaining in or from performing the duties of any lawful employment shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty-five nor more than five hundred dollars, or by confinement not less than one nor more than six months in the county jail.

SECTION 1. Any person or persons who shall, by force, threats, or intimidation of any kind whatever, against any railroad engineer or engineers, or any conductor, brakeman, or other officer or employee, employed or engaged in running any passenger train, freight train, or construction train running upon any railroad in this State, prevent the moving or running of said passenger, freight, or construction train shall be deemed guilty of an offense, and upon conviction thereof each and every person so offending shall be fined in a sum not less than one hundred dollars nor more than five hundred dollars, and also imprisoned in the county jail for any period of time not less than three months nor more than twelve months.

SEC. 2. Each day said train or trains mentioned in section one of this act are prevented from moving on their road as specified in section one of this act shall be deemed a separate offense, and shall be punished as prescribed in section one of this act.

Vermont's legislation appears in the two following sections of the Revised Laws of 1880:

SECTION 4226. A person who threatens violence or injury to another person with intent to prevent his employment in a mill, manufactory, shop, quarry, mine, or railroad, shall be imprisoned not more than three months or fined not more than one hundred dollars.

SEC. 4227. A person who, by threats or intimidation, or by force, alone or in combination with others, affrights, drives away, and prevents another person from accepting, undertaking, or prosecuting such employment with intent to prevent the prosecution of work in such mill, shop, manufactory, mine, quarry, or railroad, shall be imprisoned in the State prison not more than five years or fined not more than five hundred dollars.

The following, taken from the syllabus of a case decided in 1884, shows the holding of the supreme court of Vermont in a conspiracy case coming partly under the above statute:

The labor and skill of the workman, the plant of the manufacturer, and the equipment of the farmer are in equal sense property. Every man has the right to employ his talents, industry, and capital as he pleases, free from the dictation of others; and if two or more persons combine to coerce his choice in this behalf it is a criminal conspiracy, whether the means employed are actual violence or a species of intimidation that works upon the mind. A count is sufficient which charges that the respondents unlawfully combined, conspired, and agreed together to prevent and hinder by violence, threats, and intimidation the Ryegate Granite Works from retaining and taking into its employ certain workmen. A count is sufficient which charges that the respondents, with malicious intent to control and injure said company, unlawfully conspired to terrify, intimidate, and drive away by threats its workmen. A count is sufficient which merely charges a conspiracy to do an unlawful act and *a fortiori* one that charges a conspiracy to do an unlawful act by unlawful means; thus these sections prescribe the punishment for using threats or intimidation to prevent a person accepting or continuing an employment in a mill, etc. The count charged that the respondents conspired with intent to prevent a prosecution of the business of said granite works and threatened its workmen, that they were "scab shops," that the employees were "scabs," that their names would be published in the "scab" list in the Granite Cutters' Journal, that they would be shunned and disgraced in the craft, etc., and that thereby they were frightened and driven away: *Held*, That said count charged a conspiracy to do an act unlawful at common law, by means unlawful under these sections, and that it sufficiently sets out an offense under these sections. The "boycott" is not the remedy to adjust the differences between capital and labor.

The State of Wisconsin has, in a section of the Annotated Statutes of 1889, enacted the following:

SECTION 4466c. Any person who by threats, intimidation, force, or coercion of any kind shall hinder or prevent any other person from engaging in or continuing in any lawful work or employment, either for himself or as a wage worker, or who shall attempt to so hinder or

prevent, shall be punished by fine not exceeding one hundred dollars or by imprisonment in the county jail not more than six months, or by both fine and imprisonment, in the discretion of the court.

The circuit court of the United States for the eastern district of Wisconsin has decided that the above section is declaratory of the common law, and that, in connection with sections 4466a and 4466b (see page 16), it wholly condemns all conspiracies to injure or oppress, or to interfere with the rights of others. In a case heard in the supreme court of Wisconsin and decided in October, 1898, it was claimed that the complaint in a criminal prosecution under the above section failed to state an offense under the same. The court decided that such an offense was stated, and used the following language:

Nevertheless, we are constrained to hold that the complaint is sufficient. It alleges, in effect, that at the time mentioned the plaintiff in error, at the city of Waukesha, in the municipal district, being then and there the business agent of the Building Trades Council of Milwaukee, a labor organization commonly called a "union," and acting as the agent of such trades council, for the purpose of preventing E. J. Affolter, John Kleigel, and Ed. Welsh, and divers other persons, then and there being nonunion men and not connected with the Building Trades Council or any other labor organization, from continuing in the lawful employment in which they were then and there engaged, so that their places be taken and the work performed by the so-called "union men," did then and there, by threats, intimidation, force, and coercion, willfully attempt to hinder and prevent said Affolter, Kleigel, and Welsh, and divers other persons, from engaging in and continuing in their lawful work and employment, to wit, working as carpenters for the firm of George Mindemand & Co. in and upon the erection and construction of a certain building described, in Waukesha; that the attempt to so hinder and prevent Affolter, Kleigel, and Welsh from so engaging in and continuing in their lawful work and employment by threats, intimidation, force, and coercion consisted in this, to wit: "That said Otto Fischer did then and there, in the presence of the said E. J. Affolter, John Kleigel, and Ed. Welsh, to, of, and concerning them, say: 'You (meaning the aforesaid E. J. Affolter, John Kleigel, and Ed. Welsh) can not build this building (meaning the building described as aforesaid). I will fight it if it takes all summer; and if your city will not protect us we will get the militia'—contrary to the statute in such case made and provided, and against the peace and dignity of the State of Wisconsin,"—and prays that the said Otto Fischer may be arrested and dealt with according to law. This language seems to be sufficient to authorize a finding that the accused did, "by threats, intimidation, force, or coercion," attempt to hinder or prevent the persons named and others from engaging or continuing in the lawful work or employment mentioned.

ILLEGAL ACTS OF STRIKERS.

During the progress of strikes, especially those of railroad employees, it is usual for many acts to be committed, either by the strikers or their sympathizers, with a view of preventing the employers

from using their property and conducting business. These acts may be violent, as the destruction or injuring of property, cars, buildings, locomotives, etc., or they may consist in simply abandoning a locomotive or a train without warning, and acts of a similar nature. Such acts, if they accomplish the purpose of the strikers of obstructing the conduct of business, tend to prevent the employment of workmen by the employers. A number of the States have passed statutes intended to prevent such practices and providing penalties for the commission of such unlawful acts. These statutes vary greatly in their terms, some of them containing in their bodies evidence that their provisions were directed primarily against offenses growing out of strikes, while others were directed primarily against offenses committed for other reasons, as those prompted by viciousness or by a design to aid in the robbing of trains, etc. It is often difficult to make a separation of such laws with certainty, and their language is such that, whatever the reasons for their enactment may have been, they could all undoubtedly be used in the punishment of those attempting to obstruct the conduct of a business by the use of certain illegal means, whatever their object in so doing might be. Such statutes have been passed by the legislatures of the following States and Territories: Arizona, Arkansas, Connecticut, Delaware, Idaho, Illinois, Indiana, Kansas, Kentucky, Maine, Minnesota, Mississippi, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Virginia, Washington, West Virginia, and Wisconsin. Many of these statutes are long, and it would be impracticable to attempt to reproduce them all in an article of this kind. An attempt will therefore be made to state the main features of their provisions, giving from time to time a few of the laws themselves as samples of the different kinds.

It may be stated, as true in general of them all, that they enumerate and forbid the commission of certain deeds and provide penalties for the violation of their provisions. Most of said statutes apply in the case of railroads, steam or street, one or both, but usually steam railroads only. As a sort of a summary of the prohibited acts usually mentioned in such statutes, though not containing them all, the statute of Arizona, part of the Penal Code, is given below:

SECTION 915 (as amended by act No. 63, acts of 1893). Every person who shall willfully or intentionally, without any legal excuse or justification therefor, either—

1. Remove, displace, destroy, or injure in any way any part of any railroad, whether for steam or horse cars, electric cars or cable cars, or any track, roadbed, bridge, culvert, car or locomotive engine, depot, water tank, coal bin, turntable, roundhouse, machine shops or machinery, section house, telegraph wires or lines, telegraph poles, batteries or office fixtures for operating telegraph wires or lines, or

any other property, real or personal, used in the operation of any railroad or switch, side track, viaduct, or embankment, or

2. Place any obstruction upon the rails, track, or roadbed of any railroad, switch, branch, side track, or turn-out, or

3. Who shall do any act with the intent or for the purpose of derailing any car, train, or trains of cars, locomotive engine, or of obstructing the running or operation of any car, train, or trains of cars, or locomotive engines, or who shall in anywise attempt to prevent any car, train, or trains of cars, or locomotive engine from being run or operated, or

4. Who shall, without legal excuse or justification, prevent or in anywise attempt to prevent any telegraph despatches or orders for the movement or operation of railroad trains or cars or locomotive engines from being sent or delivered or received shall be punished as follows:

By imprisonment in a Territorial prison for a period not exceeding five years or in a county jail not less than six months, and in addition thereto the court or judge may, in its or his discretion, impose a fine upon such person or persons, together with such imprisonment, in any sum not exceeding one thousand dollars.

The abandonment of a locomotive, train of cars, etc., by employees is frequently forbidden, under certain circumstances. The following section of the General Statutes of Connecticut of 1888 is an example of it:

SECTION 1517 (as amended by chapter 87, acts of 1895). Every person who shall unlawfully, maliciously, and in violation of his duty or contract, unnecessarily stop, delay, or abandon any locomotive, car, or train of cars, or street-railway car, or shall maliciously injure, hinder, or obstruct the use of any locomotive, car, or railroad, or street-railway car, or street railway, shall be fined not more than one hundred dollars or imprisoned not more than six months.

The statutes of Arkansas (secs. 1858 and 1859, Digest of 1894), Idaho (act approved February 27, 1893, page 68, acts of 1893), Indiana (secs. 2034 to 2043, Annotated Statutes of 1894), Minnesota (secs. 6772, 6855, 6885, and 6891, General Statutes of 1894), Montana (sec. 1030, Penal Code), Nebraska (secs. 6753 to 6757, Compiled Statutes of 1895), Nevada (chap. 67, acts of 1891), New Hampshire (secs. 1 to 6 of chap. 266, Public Statutes of 1891), New Mexico (chap. 16, acts of 1897), New York (sec. 30 of chap. 4, acts of 1891), North Dakota (sec. 7547, Revised Codes of 1895), Oregon (act approved February 21, 1893, page 85, acts of 1893), Rhode Island (secs. 45, 65, and 66 of chap. 279, General Laws of 1896), South Carolina (secs. 1733 to 1735, Civil Statute Laws, and 123, 124, 178 to 182, Criminal Statute Laws, Revised Statutes of 1893, and act No. 482, acts of 1898), South Dakota (secs. 6873 and 6874, Compiled Laws of 1887), Virginia (sec. 3725, Code of 1887), Washington (sec. 2, Penal Code, and chap. 52, acts of 1895), West Virginia (secs. 26, 26a, and 31 of chap. 145, Code of 1891), and Wisconsin (sec. 4466d, Annotated Statutes of 1889) are all of them similar in spirit to the statute of Arizona, reproduced above, although

varying much therefrom in language and particular provisions. Many of them, as has been stated before, are undoubtedly designed to prevent attempts at train robbery, while two of them—those of Indiana and South Carolina—contain provisions against injuring the property of companies, etc., other than railroad, such as steamboat, telegraph, telephone, electric light, etc.

Those laws which by their very terms are intended to apply to offenses growing out of strikes refer, with but one exception, to strikes on railroads only. Eight States—Delaware, Illinois, Kansas, Kentucky, Maine, Mississippi, New Jersey, and Pennsylvania—have such laws on their statute books, and that of Delaware, to be found on page 928 of the Revised Code, is reproduced below:

SECTION 1. If any locomotive engineer, upon any railroad within this State, who shall, at the time, be engaged in any strike, or with a view to incite others to such strike, or in furtherance of any combination or preconcerted arrangement with any other person or persons to bring about or produce such strike, shall abandon the locomotive engine in his charge, when attached either to a passenger or freight train, at any place other than the schedule or otherwise appointed destination of such train, or shall refuse or neglect to proceed with said train to the place of destination, as aforesaid, every such person so offending shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof by indictment, be fined not less than one hundred nor more than five hundred dollars and may be imprisoned for a term not exceeding six months, at the discretion of the court.

SEC. 2. If any locomotive engineer, or railroad employee, within this State, for the purpose of furthering the object of, or lending aid to, any strike or strikes organized or attempted to be maintained on any other railroad, either within or without this State, shall refuse or neglect, in the course of his employment, to aid in the movement over and upon the tracks of the company employing him of the cars of such other railroad company, or receive therefrom in course of transit where strikes are, either then, or may have been organized or attempted to be maintained, as aforesaid, every person so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof by indictment shall be fined not less than one hundred nor more than five hundred dollars and may be imprisoned for a term not exceeding six months, at the discretion of the court.

SEC. 3. If any person in aid or furtherance of the objects of any strike upon any railroad within this State shall interfere with, molest, or obstruct any railroad employee engaged in the discharge and performance of his duty as such, every person so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof by indictment shall be fined not less than one hundred nor more than five hundred dollars and may be imprisoned for a term not exceeding six months, at the discretion of the court.

SEC. 4. If any person or persons, in aid or furtherance of the objects of any strike, shall obstruct any railroad track within this State, or shall injure or destroy the rolling stock or any other property of any railroad company, or shall take possession of or remove any such property, or shall prevent, or attempt to prevent, the use thereof by such railroad company or its employees, or shall, by offer of recompense,

induce any employees of any railroad company within this State to leave the service of such company, every such person so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof by indictment shall be fined not less than five hundred nor more than one thousand dollars and may be imprisoned not less than six months nor more than one year, at the discretion of the court.

SEC. 5. If any conductor, baggage master, brakeman, or other train man, employed on either a freight or passenger train, on any railroad within this State, shall abandon the train to which he is so attached, or with which he is connected in furtherance of any strike, or with a view of inciting others to such strike, or in aid of any others who may be engaged in such strike, at any place other than the schedule or otherwise appointed destination of such train, or shall refuse or neglect to proceed with such train to its place of destination, every such person so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof by indictment shall be fined not less than one hundred nor more than five hundred dollars and may be imprisoned for a term not exceeding six months, at the discretion of the court.

The statute of Illinois, being four sections of chapter 114 and one section of chapter 38 of the Annotated Statutes of 1896, reads as follows:

SECTION 128. If any locomotive engineer, in furtherance of any combination or agreement, shall willfully and maliciously abandon his locomotive upon any railroad at any other point than the regular schedule destination of such locomotive, he shall be fined not less than twenty dollars, nor more than one hundred dollars, and confined in the county jail not less than twenty days, nor more than ninety days.

SEC. 129. If any person or persons shall willfully and maliciously, by any act or by means of intimidation, impede or obstruct, except by due process of law, the regular operation and conduct of the business of any railroad company or other corporation, firm, or individual in this State, or of the regular running of any locomotive engine, freight or passenger train, of any such company, or the labor and business of any such corporation, firm, or individual, he or they shall, on conviction thereof, be punished by a fine of not less than twenty dollars ($20), nor more than two hundred dollars ($200), and confined in the county jail not less than twenty, nor more than ninety days.

SEC. 130. If two or more persons shall willfully and maliciously combine or conspire together to obstruct or impede by any act, or by means of intimidation, the regular operation and conduct of the business of any railroad company or any other corporation, firm, or individual in this State, or to impede, hinder, or obstruct, except by due process of law, the regular running of any locomotive engine, freight or passenger train, on any railroad, or the labor or business of any such corporation, firm, or individual, such persons shall, on conviction thereof, be punished by fine not less than twenty dollars ($20), nor more than two hundred dollars ($200), and confined in the county jail not less than twenty days, nor more than ninety days.

SEC. 131. This act shall not be construed to apply to cases of persons voluntarily quitting the employment of any railroad company or such other corporation, firm, or individual, whether by concert of action or otherwise, except as is provided in section one (1) of this act [sec. 128].

SECTION 385. Any person or persons who shall remove, take, steal, change, add to, take from, or in any manner interfere with any journal bearings or brasses, or any of the parts or attachments of any locomotive, tender, or cars, or any fixture or attachment belonging to, connected with, or used in operating any locomotive, tender, or car owned, leased, or used by any railroad or transportation company in this State, shall be subject to punishment by imprisonment in the penitentiary not less than one nor more than five years, in the discretion of the court or jury before whom the cause is tried: *Provided*, That upon a plea of guilty being entered, the court may fix the penalty prescribed herein: *Provided further*, That if the removal of such journal bearings or brasses, fixtures, or attachments as aforesaid, shall be the cause of wrecking any train, locomotive, or other car in this State whereby the life or lives of any person or persons shall be lost as a result of the felonious or malicious stealing, interfering with, or removal of the fixtures aforsesaid, the person or persons found guilty thereof shall be liable for murder as in other cases.

The Kansas statute is a literal copy of sections 128 to 131, above.

The Kentucky statute is comprised in the following sections of the Statutes of 1894:

SECTION 802. It shall be unlawful for any person or persons to prevent, hinder, or delay, or to attempt to prevent, hinder, or delay, by violence, the transportation of freight or passengers in this State by any individual, firm, company, corporation, or association doing business in this State, or to interfere with, by violence, any person or agency engaged in the conduct of commerce and traffic in this State, in such manner as to obstruct or impede the movement and conduct of such commerce or traffic; but nothing herein shall be construed to prevent any person, or class of persons, from quitting their employment at any time they see proper.

SEC. 803. And it shall be unlawful for any person or persons to prevent or hinder, or attempt to prevent or hinder, by coercion, intimidation, or any trespass or violent interference therewith, the free and lawful use of his or its property by any individual, firm, company, corporation, or association engaged in the business of transporting freight and passengers, and in the conduct of commerce and traffic in this State, or the free and lawful use of said property by any agent or employee of the owner thereof.

SEC. 804. Whoever shall violate the provisions of either of the two preceding sections shall be deemed guilty of a misdemeanor, and, upon conviction by any court of competent jurisdiction, shall be punished for each offense by a fine of not less than twenty-five, nor more than two hundred dollars, or by imprisonment in the county jail of the county wherein the offense is committed not less than ten days, nor more than six months, or shall be both so fined and imprisoned, in the discretion of the jury.

SEC. 807. Any person who shall willfully and maliciously tear up, displace, break, or disturb any rail or other fixture attached to the track or switch of any railroad in operation, or break any bridge or viaduct of such road, or who shall place any obstruction on the track or switch of such road, or do any act whereby any engine or car might be upset, arrested, or thrown from the track of such road or switch, or any branch

or turn-out, shall be confined in the penitentiary not less than one, nor more than five years.

SEC. 808. Any person who shall, by any of the acts mentioned in the next preceding section, cause the life of any person to be put in immediate peril, or cause any locomotive or car to be actually thrown from the track, shall be confined in the penitentiary not less than two, nor more than ten years.

The statute of the State of Maine, being four sections of chapter 123, of the Revised Statutes of 1883, is as follows:

SECTION 6. Any employee of a railroad corporation who, in pursuance of an agreement or combination by two or more persons to do, or procure to be done, any act in contemplation or furtherance of a dispute between such corporation and its employees, unlawfully, or in violation of his duty or contract, stops or unnecessarily delays or abandons, or in any way injures a locomotive or any car or train of cars on the railway track of such corporation, or in any way hinders or obstructs the use of any locomotive, car, or train of cars on the railroad of such corporation, shall be punished by fine not exceeding five hundred dollars, or imprisonment in the State prison or in jail not exceeding one year.

SEC. 7. Whoever, by any unlawful act, or by any willful omission or neglect, obstructs or causes to be obstructed an engine or carriage on any railroad or railway, or aids or assists therein; or whoever, having charge of any locomotive or carriage while upon or in use on any railway of any railroad corporation, willfuly stops, leaves, or abandons the same, or renders, or aids, or assists in rendering the same unfit for or incapable of immediate use, with intent thereby to hinder, delay, or in any manner to obstruct or injure the management and operation of any railroad or railway, or the business of any corporation operating or owning the same, or of any other corporation or person, and whoever aids or assists therein, shall be punished by fine not exceeding one thousand dollars, or imprisonment in the State prison or in jail not exceeding two years.

SEC. 8. Whoever, having any management of, or control, either alone or with others, over any railroad locomotive, car, or train, while it is used for the carriage of persons or property, or is at any time guilty of gross carelessness or neglect on, or in relation to, the management or control thereof; or maliciously stops or delays the same, in violation of the rules and regulations then in force for the operation thereof; or abstracts therefrom the tools or appliances pertaining thereto, with intent thereby maliciously to delay the same, shall be punished by a fine not exceeding one thousand dollars, or imprisonment in the State prison or in jail not exceeding three years.

SEC. 10. Any person in the employment of a railroad corporation who, in furtherance of the interests of either party to a dispute between another railroad corporation and its employees, refuses to aid in moving the cars of such other corporation, or trains in whole or in part made up of the cars of such other corporation, over the tracks of the corporation employing him, or refuses to aid in loading or discharging such cars, in violation of his duty as such employee, shall be punished by fine not exceeding five hundred dollars, or imprisonment in the State prison or in jail not exceeding one year.

The following is the statute of Mississippi as given in the Annotated Code of 1892:

SECTION 1265. If any person shall wantonly or negligently obstruct or injure any railroad, on conviction he shall be fined not more than two thousand dollars, or imprisoned not longer than twelve months in the county jail, or both.

SEC. 1266. If any person shall wantonly or maliciously injure, or place any impediment or obstruction on any railroad, or do any other act by means of which any car or vehicle might be caused to diverge, or be derailed, or thrown from the track, such person on conviction shall be imprisoned in the penitentiary not longer than ten years; and the penalty provided in this section shall apply to any engineer, conductor, switchman, brakeman, train dispatcher, or telegraph operator who shall willfully or negligently cause the derailment or collision of a passenger train.

SEC. 1270. If two or more persons shall willfully and maliciously combine or conspire together to obstruct or impede by any act, or by means of intimidation, the regular operation and conduct of the business of any railroad company, or to impede, hinder, or obstruct, except by due process of law, the regular running of any locomotive engine, freight or passenger train on any railroad, or the labor and business of such railroad company, such persons, and each of them, shall on conviction be punished by a fine not exceeding five hundred dollars, or imprisonment in the county jail not exceeding six months, or both; but this section shall not apply to persons who merely quit the employment of a railroad company, whether by concert of action or otherwise.

SEC. 1271. If any person, not being employed on any railroad, shall willfully and maliciously uncouple or detach the locomotive or tender or any of the cars of any railroad train, or shall in any way aid, abet, or procure the doing of the same, such person shall be punished by a fine of not more than two hundred dollars, or imprisonment in the county jail not exceeding six months, or both.

SEC. 1273. If any person shall unlawfully seize upon any locomotive and run it away, or shall aid, abet, or procure the doing of the same, he shall upon conviction be fined not exceeding two hundred dollars, or imprisoned in the county jail not exceeding six months, or both.

SEC. 1274. It shall be unlawful for any locomotive or train of cars to be stopped or left standing on any railroad crossing, unless done under regulations adopted by those having the right to control such matter; and any person violating this section shall on conviction be fined not less than one hundred dollars nor more than one thousand dollars, or be imprisoned in the county jail for one year, or both; and if in consequence of such violation any person shall be killed or injured, the guilty party shall be imprisoned in the penitentiary not exceeding fifteen years.

SEC. 1279. If any brakeman, switchman, or other person in charge of any switch shall willfully or carelessly leave the same open or improperly placed, whereby any person shall be killed or injured, he shall on conviction be imprisoned in the penitentiary not more than fifteen years.

SEC. 1280. If any person, without authority and in the absence of

apparent danger warranting such act, shall, out of a spirit of mischief, or with any purpose other than to prevent or give information of an accident, make, or cause to be made, any sign or signal to persons in charge of any locomotive or railroad train or cars, or to any of such persons, or in the sight of any of them, with intent to cause the stopping or starting of such locomotive, train, or cars, or if any person unlawfully interfere with the management or running of such locomotive, train, or cars on any railroad, the person so offending shall be guilty of a misdemeanor, and upon conviction shall be fined not less than ten dollars nor more than two hundred dollars, or shall be imprisoned in the county jail not exceeding three months.

The statute of the State of New Jersey is found on page 2696 of the General Statutes of 1895, and reads as follows:

Whereas, strikes by locomotive engineers and other railroad employees, and the abandonment by them of their engines and trains at points other than their schedule destination, endangers the safety of passengers and subjects shippers of freights to great inconvenience, delay, and loss; therefore,

SEC. 245. If any locomotive engineer or other railroad employee upon any railroad within this State, engaged in any strike, or with a view to incite others to such strike, or in furtherance of any combination or preconcerted arrangement with any other person to bring about a strike, shall abandon the locomotive engine in his charge, when attached either to a passenger or freight train, at any place other than the schedule or otherwise appointed destination of such train, or shall refuse or neglect to continue to discharge his duty, or to proceed with said train to the place of destination as aforesaid, he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than one hundred nor more than five hundred dollars, and may be imprisoned for a term not exceeding six months, at the discretion of the court.

SEC. 246. If any locomotive engineer or other railroad employee within this State, for the purpose of furthering the object or of lending aid to any strike or strikes organized or attempted to be maintained on any other railroad, either within or without this State, shall refuse or neglect, in the course of his employment, to aid in the movement over and upon the tracks of the company employing him of the cars of such other railroad company, received therefrom in the course of transit, he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than one hundred nor more than five hundred dollars, and may be imprisoned for a term not exceeding six months, at the discretion of the court.

SEC. 247. If any person, in aid or furtherance of the objects of any strike upon any railroad, shall interfere with, molest, or obstruct any locomotive engineer or other railroad employee engaged in the discharge and performance of his duty as such, every person so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than one hundred nor more than five hundred dollars, and may be imprisoned for a term not exceeding six months, at the discretion of the court.

SEC. 248. If any person or persons, in aid or furtherance of the objects of any strike, shall obstruct any railroad track within this State, or shall injure or destroy the rolling stock or any other prop-

erty of any railroad company, or shall take possession of or remove any such property, or shall prevent or attempt to prevent the use thereof by such railroad company or its employees, or shall, by offer of recompense, induce any employee of any railroad company within this State to leave the service of such company while in transit, every such person offending shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not exceeding five hundred dollars, and may be imprisoned not more than one year, at the discretion of the court.

The State of Pennsylvania has legislated upon this subject in a statute appearing on page 533 of the Digest of 1895, being as follows:

SECTION 357. If any locomotive engineer, or other railroad employee, upon any railroad within this State, engaged in any strike, or with a view to incite others to such strike, or in furtherance of any combination or preconcerted arrangement with any other person to bring about a strike, shall abandon the locomotive engine in his charge, when attached either to a passenger or freight train, at any place other than the schedule or otherwise appointed destination of such train, or shall refuse or neglect to continue to discharge his duty, or to proceed with said train to the place of destination as aforesaid, he shall be deemed guilty of a misdemeanor; and upon conviction thereof shall be fined not less than one hundred dollars nor more than five hundred dollars, and may be imprisoned for a term not exceeding six months, at the discretion of the court.

SEC. 358. If any locomotive engineer, or other railroad employee, within this State, for the purpose of furthering the object of, or lending aid to any strike or strikes, organized or attempted to be maintained on any other railroad, either within or without this State, shall refuse or neglect, in the course of his employment, to aid in the movement over and upon the tracks of the company employing him, [or] the cars of such other railroad company, received therefrom in the course of transit, he shall be deemed guilty of a misdemeanor; and upon conviction thereof shall be fined not less than one hundred dollars nor more than five hundred dollars, and may be imprisoned for a term not exceeding six months, at the discretion of the court.

SEC. 359. If any person, in aid or furtherance of the objects of any strike upon any railroad, shall interfere with, molest or obstruct any locomotive engineer, or other railroad employee, engaged in the discharge and performance of his duty as such, every person so offending shall be deemed guilty of a misdemeanor; and upon conviction thereof shall be fined not less than one hundred nor more than two hundred dollars, and may be imprisoned for a term not exceeding six months, at the discretion of the court.

SEC. 360. If any person or persons, in aid or furtherance of the objects of any strike, shall obstruct any railroad track within this State, or shall injure or destroy the rolling stock or any other property of any railroad company, or shall take possession of or remove any such property, or shall prevent or attempt to prevent the use thereof by such railroad company or its employees, every such person so offending shall be deemed guilty of a misdemeanor; and upon conviction thereof shall be fined not less than five hundred dollars nor more than one thousand dollars, and may be imprisoned not less than six months nor more than one year, at the discretion of the court.

PROTECTION OF EMPLOYEES AS MEMBERS OF LABOR ORGANIZATIONS.

A matter which is intimately connected with the subject of strikes, etc., is the effort made by employers to have no relations with labor organizations in the conduct of their business and their endeavor, in this connection, not to employ workmen who belong to such associations. With this end in view in such cases it has been common for employers to require, as a condition of employment, from those desiring the same, agreements not to become or continue members of any labor organizations.

A number of States, of which the following is a list, have enacted statutes making this practice on the part of employers unlawful: California, Colorado, Connecticut, Idaho, Illinois, Indiana, Kansas, Massachusetts, Minnesota, Missouri, New Jersey, New York, Ohio, Pennsylvania, and Wisconsin.

The statute of California, to be found as section 679 of the Penal Code, is in the following language:

SECTION 679 (added by chapter 149, acts of 1893). Any person or corporation within this State, or agent or officer on behalf of such person or corporation, who shall hereafter coerce or compel any person or persons to enter into an agreement, either written or verbal, not to join or become a member of any labor organization, as a condition of such person or persons securing employment or continuing in the employment of any such person or corporation, shall be guilty of a misdemeanor.

Colorado's enactments are embodied in chapter 50, acts of 1897, and read as follows:

SECTION 1. It shall be unlawful for any individual, company or corporation or any member of any firm, or agent, officer or employee of any company or corporation, to prevent employees from forming, joining or belonging to any lawful labor organization, union, society, or political party, or to coerce or attempt to coerce employees by discharging or threatening to discharge them from their employ or the employ of any firm, company or corporation, because of their connection with such lawful labor organization, union, society, or political party.

SEC. 2. Any person or any member of any firm, or agent, officer or employee of any such company or corporation, violating the provisions of section one of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than one hundred dollars nor more than five hundred dollars or imprisoned for a period not less than six months nor more than one year, or both, in the discretion of the court.

On page 187 of the acts of 1893, Missouri's provisions appear in the following statute:

SECTION 1. No employer, superintendent, foreman, or other person exercising superintendence or authority over any mechanic, miner, engineer, fireman, switchman, baggageman, brakeman, conductor, tel-

egraph operator, laborer, or other workingman, shall enter into any contract or agreement with any such employee, requiring said employee to withdraw from any trade union, labor union, or other lawful organization of which said employee may be a member, or requiring said employee to refrain from joining any trade union, labor union, or other lawful organization, or requiring any such employee to abstain from attending any meeting or assemblage of people called or held for lawful purposes, or shall by any means attempt to compel or coerce any employee into withdrawal from any lawful organization or society.

SEC. 2. Corporations, and the managers, superintendents, overseers, master mechanics, foremen, officers and directors, and others exercising authority for and on behalf of corporations doing business in this State, shall be subject to the provisions of this act, and upon conviction of the violations of any of its provisions, to the punishment prescribed by it.

SEC. 3. Any person or corporation violating any of the provisions of this act shall, upon conviction, be punished by a fine of not less than fifty dollars nor more than one thousand dollars, or imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.

New York's statute, part of the Penal Code, is as follows:

SECTION 171a (added by chapter 688, acts of 1887). Any person or persons, employer or employers of labor, and any person or persons of any corporation or corporations on behalf of such corporation or corporations, who shall hereafter coerce or compel any person or persons, employee or employees, laborer or mechanic, to enter into an agreement, either written or verbal, from such person, persons, employee, laborer, or mechanic, not to join or become a member of any labor organization, as a condition of such person or persons securing employment, or continuing in the employment of any such person or persons, employer or employers, corporation or corporations, shall be deemed guilty of a misdemeanor. The penalty for such misdemeanor shall be imprisonment in a penal institution for not more than six months, or by a fine of not more than two hundred dollars, or by both such fine and imprisonment.

Ohio's enactments, on page 269 of the acts of 1892, read as follows:

SECTION 1. It shall be unlawful for any individual or member of any firm, or agent, officer, or employee of any company or corporation, to prevent employees from forming, joining, and belonging to any lawful labor organization, and any such individual, member, agent, officer or employee that coerces or attempts to coerce employees, by discharging or threatening to discharge from their employ or the employ of any firm, company, or corporation, because of their connection with such lawful labor organization, shall be guilty of a misdemeanor, and upon conviction thereof in any court of competent jurisdiction shall be fined in any sum not exceeding one hundred dollars or imprisoned for not more than six months, or both, in the discretion of the court.

The above statutes are sufficient to show the varieties in form. Those of the other States are practically the same in their provisions as the above and are to be found as follows: Connecticut (chapter

170, acts of 1899), Idaho (page 221, acts of 1899), Illinois (section 302 of chaper 38, Annotated Statutes of 1896), Indiana (section 2302, Annotated Statutes of 1894), Kansas (chapter 120, acts of 1897), Massachusetts (sections 3 and 78 of chapter 508, acts of 1894), Minnesota (sections 1 and 2 of chapter 172, and section 3 of chapter 174, acts of 1895, on page 13, ante), New Jersey (chapter 212, acts of 1894), Pennsylvania (act No. 98, acts of 1897), and Wisconsin (section 4466b, clauses 4 and 5, Annotated Statutes of 1889, on page 16, ante, and chapter 332, acts of 1899).

In a case heard in 1895 the supreme court of Missouri decided that the Missouri statute, above, violates the fifth amendment and section 1 of the fourteenth amendment of the Constitution of the United States, and also section 30 of article 2 of the State constitution, which declare that no person shall be deprived of life, liberty, or property without due process of law, and it also decided that it was unconstitutional, as being special or class legislation.

In a case heard and decided by the supreme court of New York in 1893 the evidence showed that the Ale Brewers' Association of the city of Rochester, an employer of labor, had made an agreement with the local assembly of a labor organization that no brewery belonging to the association would employ a workman who was not a member of said labor organization. This case, on its face, was the converse of the prohibition in the New York statute; yet the court held that the means employed by the labor organization to accomplish its objects violated the spirit, if not the letter, of the statute, and conflicted with the principles of public policy, by making the refusal of a workman to join said organization a pretext for interfering with his personal liberty by depriving him of his right to labor.

The constitutionality of the Ohio act has been questioned in the courts, but was affirmed in a case heard in the court of common pleas.

A Federal statute upon this subject has recently been enacted by Congress and is contained in chapter 370 of the acts of 1897–98. The parts of the statute relating to this subject read as follows:

SECTION 1. The provisions of this act shall apply to any common carrier or carriers and their officers, agents, and employees, except masters of vessels and seamen, as defined in section forty-six hundred and twelve, Revised Statutes of the United States, engaged in the transportation of passengers or property wholly by railroad, or partly by railroad and partly by water, for a continuous carriage or shipment, from one State or Territory of the United States, or the District of Columbia, to any other State or Territory of the United States, or the District of Columbia, or from any place in the United States to an adjacent foreign country, or from any place in the United States through a foreign country to any other place in the United States. The term "railroad" as used in this act shall include all bridges and ferries used or operated in connection with any railroad, and also all the road in use by any corporation operating a railroad, whether owned or oper-

ated under a contract, agreement, or lease; and the term "transportation" shall include all instrumentalities of shipment or carriage. The term "employees" as used in this act shall include all persons actually engaged in any capacity in train operation or train service of any description, and notwithstanding that the cars upon or in which they are employed may be held and operated by the carrier under lease or other contract: *Provided, however*, That this act shall not be held to apply to employees of street railroads and shall apply only to employees engaged in railroad train service. In every such case the carrier shall be responsible for the acts and defaults of such employees in the same manner and to the same extent as if said cars were owned by it and said employees directly employed by it, and any provisions to the contrary of any such lease or other contract shall be binding only as between the parties thereto and shall not affect the obligations of said carrier either to the public or to the private parties concerned.

SEC. 10. Any employer subject to the provisions of this act and any officer, agent, or receiver of such employer who shall require any employee, or any person seeking employment, as a condition of such employment, to enter into an agreement, either written or verbal, not to become or remain a member of any labor corporation, association, or organization; or shall threaten any employee with loss of employment, or shall unjustly discriminate against any employee because of his membership in such a labor corporation, association, or organization; * * * is hereby declared to be guilty of a misdemeanor, and, upon conviction thereof in any court of the United States of competent jurisdiction in the district in which such offense was committed, shall be punished for each offense by a fine of not less than one hundred dollars and not more than one thousand dollars.

PROTECTION OF EMPLOYEES IN THEIR POLITICAL AND SOCIAL RIGHTS.

In order to prevent the discharge or the nonemployment of workmen on political grounds many States have enacted laws prohibiting employers from coercing employees by threats of loss of employment, etc., to vote or not to vote for particular candidates for office or particular measures, and from discharging employees on account of the way in which their votes have been cast. The States and Territories having existing legislation upon the above subject are Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nevada, New Jersey, New Mexico, New York, North Carolina, Ohio, Pennsylvania, South Carolina, South Dakota, Tennessee, Utah, West Virginia, Wisconsin, and Wyoming.

The statute of Arizona, part of act No. 20, acts of 1895, reads as follows:

SECTION 4. It shall be unlawful for any employer, either corporation, association, company, firm, or person, in paying its, their, or his employees the salary or wages due them, to inclose their pay in "pay envelopes" upon which there is written or printed any political mottoes, devices, or arguments containing threats, express or implied, intended

or calculated to influence the political opinion, views, or actions of such employees. Nor shall it be lawful for any employer, either corporation, association, company, firm, or person, within ninety days of any election provided by law, to put up or otherwise exhibit in its, their, or his factory, workshop, mine, mill, boarding house, office, or other establishment or place where its, their, or his employees may be working or be present in the course of such employment, any handbill, notice, or placard containing any threat, notice, or information that in case any particular ticket or candidate shall be elected, work in its, their, or his place or establishment will cease in whole or in part, or its, their, or his establishment be closed, or the wages of its, their, or his workmen be reduced, or other threats, express or implied, intended or calculated to influence the political opinions or actions of its, their, or his employees. Any person or persons, or corporation, violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and any person, whether acting in his individual capacity or as an officer or agent of any corporation, so guilty of such misdemeanor shall be punished as hereinafter prescribed.

SEC. 5. It shall be unlawful for any corporation, or any officer or agent of any corporation, to influence or attempt to influence by force, violence, or restraint, or by inflicting or threatening to inflict any injury, damage, harm, or loss, or by discharging from employment or promoting in employment, or by intimidation or otherwise, in any manner whatever, to induce or compel any employee to vote or refrain from voting at any election provided by law, or to vote or refrain from voting for any particular person or persons at any such election. Any such corporation, or any officer or agent of such corporation, violating any of the provisions of this section shall be deemed guilty of a misdemeanor and be punished by a fine not exceeding five thousand dollars.

The statutes of California, Colorado, Montana, Nevada, New York, South Dakota, Tennessee, and Utah are either identical or nearly identical with the Arizona statute, above. They are: California (section 41 of chapter 16, acts of 1893), Colorado (sections 4 and 5 of act of March 7, 1891, page 167, acts of 1891), Montana (sections 108 and 109 of the Penal Code), Nevada (sections 36 and 37 of chapter 103, acts of 1895), New York (section 41f of the Penal Code enacted by chapter 693, acts of 1892), South Dakota (sections 5, 6, and 7 of chapter 58, acts of 1891), Tennessee (sections 4, 5, and 7 of chapter 14, acts of 1897), Utah (sections 7, 8, and 21 of subchapter 8 of chapter 50, acts of 1897).

The statute of Arkansas, being part of section 2656 of the Digest of 1894, is as follows:

SECTION 2656. * * * No person shall coerce, intimidate, or unduly influence any elector to vote for or against the nominee of any political party, or for or against any particular question or candidate, by any threat * * * of discharge from employment * * *. Any violation of this section shall be deemed a felony, and on conviction shall be punished by imprisonment in the penitentiary not less than one year nor more than three years.

The Connecticut statute, section 276 of the General Statutes of 1888, is as follows:

SECTION 276. Every person who shall, at or within sixty days prior to any [electors', town, or city] * * * meeting, attempt to influence the vote of any operative in his employ by threats of withholding employment from him, or by promises of employment, or who shall dismiss any operative from his employment on account of any vote he may have given at any such meeting, shall be fined not less than one hundred dollars nor more than five hundred dollars, or imprisoned not less than six months nor more than twelve months, or both.

The statutes of Delaware (sections 1 and 2 on page 148, Revised Code of 1893), Idaho (section 5 of act of February 25, 1891, page 50, acts of 1891), Indiana (section 2341 of the Annotated Statutes of 1894), Iowa (section 1123, Code of 1897), Kansas (section 24 of chapter 129, acts of 1897), Massachusetts (section 410 of chapter 548, acts of 1898), Michigan (section 11452, Compiled Laws of 1897), Minnesota (section 114, General Statutes of 1894), New Mexico (section 1636, Compiled Laws of 1897), Ohio (section 34 of act of April 18, 1892, page 452, acts of 1892), Pennsylvania (section 52 on page 480, Digest of 1895), Wisconsin (section 4548a, Annotated Statutes of 1889), and Wyoming (subsection 8 of section 174 of chapter 80, acts of 1890) are all practically the same as the statute of Arkansas, above, and mention only the "threat of discharge from employment," although their wording varies to some extent.

The statutes of Kentucky (section 1574, Statutes of 1894), Missouri (act of March 20, 1897, page 108, acts of 1897), New Jersey (section 206 of chapter 139, acts of 1898), North Carolina (section 41 of chapter 159, acts of 1895), South Carolina (section 241, Criminal Statute Laws), and West Virginia (section 7 of chapter 5, Code of 1891) are in effect the same as the statute of Connecticut, above, prohibiting or making unlawful not only the threat of dismissal, but also the dismissal, from employment.

The statute of the State of Louisiana being very differently worded from those of the other States, though probably much the same in its meaning, is to be found in section 902 of the Revised Laws of 1897 and reads as follows:

SECTION 902. Any planter, manager, overseer, or other employer of laborers in this State who shall, previous to the expiration of the term of service of any laborer in their employ or under their control, discharge from their employ any laborer or laborers on account of their political opinions, or who shall attempt to control the suffrages or votes of such laborers, by any contract or agreement whatever, entered into at any time with such laborers, shall pay a fine of not less than one hundred dollars nor more than five hundred dollars, to be recovered before any court of competent jurisdiction; and it shall be the duty of the district attorney for the judicial district, or the district attorney *pro tempore* of the parish in which such offender resides, to

institute such suit in the name of the parish of the offender's residence, and he shall be entitled to twenty-five per cent of the amount of all fines he may so recover as his fees in the case, and the balance shall be paid to the treasurer of the common-school fund of such parish, for the use of common schools in such parish; and upon due conviction for any such offense, such offender shall be imprisoned not exceeding one year.

Section 5507 of the Revised Statutes of the United States, a Federal statute, is in form much like some of those named above, but its provisions were enacted for the benefit only of those to whom the right of suffrage was guaranteed by the fifteenth amendment to the Constitution of the United States. Said amendment provides that the right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude. This amendment was designed to protect the negroes, formerly held in slavery, in the right of suffrage. The section referred to is as follows:

SECTION 5507. Every person who prevents, hinders, controls, or intimidates another from exercising, or in exercising the right of suffrage, to whom that right is guaranteed by the fifteenth amendment to the Constitution of the United States, by means of bribery or threats of depriving such person of employment or occupation, or of ejecting such person from a rented house, lands, or other property, or by threats of refusing to renew leases or contracts for labor, or by threats of violence to himself or family, shall be punished as provided in the preceding section.

The United States courts have decided that section 5507, above, is unconstitutional and void in that it attempts to punish individuals acting upon their own responsibility, and not acting as officers of the United States or of a State, or otherwise under pretended authority of law, as prohibited by the fifteenth amendment to the Constitution, whence the power of Congress to legislate upon the right of voting at State elections is solely derived.

Nearly in line with the above laws are the three following statutes, being sections 6962 to 6964 of the General Statutes of Minnesota of 1894, section 191 of the constitution of the State of Mississippi, and sections 1, 2, and 3 of chapter 9 of the acts of Wyoming of 1893:

SECTION 6962. Any person or partnership carrying on any trade or business in this State, and any corporation created under general or special laws, foreign or domestic, and exercising public or private franchises therein, are hereby forbidden from requiring or demanding of or from any servant or employee, on any condition whatever, the surrender in writing or by parol, or the abandonment or any agreement to abandon any lawful right or privilege of citizenship, public or private, political or social, moral or religious, and whoever violates the provisions of this act shall be deemed guilty of a misdemeanor, and upon a conviction shall be fined in a sum not exceeding one hundred dollars and shall stand committed to the common jail of the proper

county until such fine and costs of prosecution are paid, or in lieu of such fine the proper court may, in its discretion, sentence the convicted party to imprisonment in the county jail of the proper county for a term not exceeding ninety days.

SEC. 6963. The president, the vice-president, secretary, general superintendent, or other principal officer of any such partnership, association, or corporation as is named in section one of this act [6962], who may direct or may be a party to the violation of the provisions hereof, shall be taken and deemed as persons within the meaning thereof and shall be held liable in all courts and places for a violation by such partnership or corporation of the provisions thereof.

SEC. 6964. The county attorney of any county, or the proper prosecuting officer of any city or municipality in this State, is hereby authorized and directed to commence and to prosecute to termination before the proper court all violations of the provisions of this act whenever the same are brought to his notice.

SECTION 191. The legislature shall provide for the protection of the employees of all corporations doing business in this State from interference with their social, civil, or political rights by said corporations, their agents or employees.

SECTION 1. Any company, corporation, or individual who shall discharge, or cause to leave his, her, or their employ, temporarily or permanently, any person or persons because they have been nominated as a candidate for any position of honor, trust, or emolument, to be voted for at any election, held in pursuance of the laws of the State, shall be guilty of a misdemeanor, and shall be fined as provided in section 3 of this act.

SEC. 2. Any person, or agent, or officer of any company or corporation who shall cause, or attempt to cause, any person or persons nominated as candidates at any election to withdraw, or refrain from accepting such nomination by threatening loss of employment, business, or patronage, if they accept such candidacy, or shall make it a condition of employment, business, or patronage that such candidacy shall not be accepted, shall be guilty of a misdemeanor.

SEC. 3. Any person convicted under the provisions of this act shall be fined not less than one hundred dollars ($100), nor more than five hundred dollars ($500).

In act No. 21, acts of 1897, the State of Arkansas has enacted a law designed to prevent the making of false statements concerning the acts of railroad employees, which statements would probably be the cause of the loss of employment by such employees. The act reads as follows:

SECTION 1. Every person who shall, by any letter, mark, sign, or designation whatever, or by any verbal statement, falsely and without probable cause, report to any railroad or any other company or corporation, or to any individual or individuals, or to any of the officers, servants, agents, or employees of any such corporation, individual or individuals, that any conductor, brakeman, engineer, fireman, station agent, or other employees of any such railroad company, corporation, individual, or individuals, have received any money for the transportation of persons or property, or shall falsely and without probable cause report that any conductor, brakeman, engineer, fireman, station agent,

or other employees of any such railroad company, corporation, individual, or individuals, neglected, failed, or refused to collect any money for transportation of persons or property when it was their duty so to do, shall, on conviction, be adjudged guilty of a misdemeanor, and shall be fined in any sum not less than one hundred dollars ($100), nor more than five hundred dollars ($500).

PREVENTION OF WORKMEN FROM LEARNING TRADES, ETC.

The State of Georgia, in the following section of the Code of 1882, has enacted legislation aimed at the action of certain trade organizations in trying to limit the number of apprentices in their particular trades:

SECTION 4498. If any two or more persons shall associate themselves together in any society or organization whatever, with intent and for the purpose of preventing, in any manner whatever, any person or persons whomsoever from apprenticing himself or themselves to learn and practice any trade, craft, vocation, or calling whatsoever, or for the purpose of inducing, by persuasion, threats, fraud, or any other means, any apprentice or apprentices to any such trade, craft, vocation, or calling, to leave the employment of their employer or employers, or for the purpose, by any means whatever, of preventing or deterring any person or persons whomsoever, from learning and practicing any such trade, craft, vocation, or calling whatsoever, every such person so associating himself in such society or organization shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished as prescribed in section 4310 of this Code.

For section 4310, referred to in the above section, see page 28.

UNLAWFUL EMPLOYMENT OF SAILORS.

Louisiana and Texas have laws upon their statute books intended to prohibit the employment of sailors in work upon wharves, etc., thus preventing the ordinary wharf laborers, stevedores, etc., from being supplanted in their ordinary employment. Louisiana has two statutes, one applying to the whole State and the other to the city of New Orleans alone. They are act No. 73, acts of 1874, and act No. 76, acts of 1880, and read as follows:

SECTION 1. It shall be unlawful for any captain, master, or mate of any seagoing vessel, or for any stevedore, to employ sailors at work on the levees in the State of Louisiana not strictly belonging to and included in regular sailors' duty, as defined and prescribed by the maritime law governing the employment and duty of sailors.

SEC. 2. Any captain, master, or mate of any seagoing vessel who shall thus unlawfully employ any sailor within the jurisdiction of this State, or who shall by threats, punishment, or duress force any sailor thus to be employed, shall for each offense on conviction thereof be punished by a fine of not less than fifty dollars, or imprisonment for not less than one month, or both, at the discretion of the court.

SEC. 3. Any stevedore who shall work or connive at the working of any sailor thus employed shall be punished as provided for in section two of this act.

SEC. 4. All officers of the State or of the city of New Orleans are hereby prohibited from enforcing by capture, arrest, or otherwise any unlawful employment of sailors as above prohibited.

SEC. 5. No captain, master, or mate of any seagoing vessel who shall thus unlawfully employ any sailor shall have the benefit of any law of the State or ordinance of the city of New Orleans heretofore enacted or that shall be enacted for the protection or assistance of captains, masters, or mates in the enforcement of their contracts with sailors as against the sailor thus unlawfully employed.

SECTION 1. No sailor or portion of the crew of any foreign seagoing vessel shall engage in working on the wharves or levees of the city of New Orleans beyond the end of the vessel's tackle.

SEC. 2. Any officer, sailor, or member of the crew of a foreign seagoing vessel violating section one of this act shall be deemed guilty of a misdemeanor, and on conviction shall be imprisoned not more than ten days.

The statute of Texas, being chapter 54, acts of 1885, is very similar to the Louisiana statute, above, and is as follows:

SECTION 1. No sailor or portion of the crew of any foreign seagoing vessel shall engage in working on the wharves or levees of ports in the State of Texas beyond the end of the vessel's tackle.

SEC. 2. Any officer, sailor, or member of the crew of a foreign seagoing vessel violating section 1 of this act shall be deemed guilty of a misdemeanor, and on conviction shall be fined in a sum not less than ten dollars nor more than one hundred dollars, or be imprisoned in the county jail for not less than ten nor more than thirty days, or both in the discretion of the court or jury.

ARBITRATION OF LABOR DISPUTES.

The statutes previously considered have related almost entirely to acts either of employers or of the employees. There exist, however, certain statutes providing for action to be taken by others in the effort to prevent workmen from losing employment, either by their own act or by those of their employers. These statutes provide for the mediation of third parties between the employers and the employees when strikes or lockouts are threatened and for the submission of the questions in dispute to arbitration. In cases of disputes and differences arising between employers and employees, a knowledge of human nature warrants the belief that such differences would usually be more easily settled and a strike or lockout, causing loss of employment by the employees, be prevented, if the questions could be left to unprejudiced persons, to be settled by them according to the facts and strict justice; and even the good efforts only of third parties, exercised in cool blood and with freedom from bias, might often prevent much trouble and financial loss.

Compulsory arbitration seems impracticable in this country for reasons not necessary to mention here, although one State has recently passed a statute practically providing for it in the case of strikes on

railroads, but it is practical for the law to step in and provide the machinery for voluntary arbitration when the parties are both willing to agree to such a method of settlement, and the law can also provide for attempts at mediation. These provisions have been made by many of the States, and the following is a list of those legislating to a greater or less extent upon this subject: California (chapter 51, acts of 1891), Colorado (chapter 2, acts of 1897), Connecticut (chapter 239, acts of 1895), Idaho (page 141, acts of 1897), Indiana (chapter 128, acts of 1899), Kansas (chapter 28, acts of 1898–99), Louisiana (act No. 139, acts of 1894), Maryland (sections 1 to 6 of article 7, Code of Public General Laws), Massachusetts (chapter 263, acts of 1886), Michigan (act No. 238, acts of 1889), Minnesota (chapter 170, acts of 1895), Missouri (sections 6354 to 6358, Revised Statutes of 1889), Montana (sections 3330 to 3338, Codes and Statutes of 1895), New Jersey (chapter 137, acts of 1892), New York (article 10 of chapter 415, acts of 1897), Ohio (page 83, acts of 1893), Pennsylvania (pages 132, 133, and 290, Digest of 1895), Texas (chapter 61, acts of 1895), Utah (chapter 62, acts of 1896), Wisconsin (chapter 364, acts of 1895), and Wyoming (constitution, section 1 of article 19).

The majority of these acts provide for the formation of a permanent State board of arbitration before which, by mutual consent, disputes and controversies between employers and employees may be arbitrated. As an illustration of an act of this kind, the Massachusetts statute, chapter 263 of the acts of 1886, and amended by several acts passed since 1886, is given below:

SECTION 1 (as amended by chapter 269, acts of 1887, and by chapter 261, acts of 1888). The governor, with the advice and consent of the council, shall, on or before the first day of July in the year eighteen hundred and eighty-six, appoint three competent persons to serve as a State board of arbitration and conciliation in the manner hereinafter provided. One of them shall be an employer or selected from some association representing employers of labor, one of them shall be selected from some labor organization and not an employer of labor, the third shall be appointed upon the recommendation of the other two: *Provided, however*, That if the two appointed do not agree on the third man at the expiration of thirty days, he shall then be appointed by the governor. They shall hold office for one year or until their successors are appointed. On the first day of July in the year eighteen hundred and eighty-seven the governor, with the advice and consent of the council, shall appoint three members of said board in the manner above provided, one to serve for three years, one for two years, and one for one year, or until their respective successors are appointed; and on the first day of July in each year thereafter the governor shall in the same manner appoint one member of said board to succeed the member whose term then expires, and to serve for the term of three years or until his successor is appointed. If a vacancy occurs at any time, the governor shall in the same manner appoint some one to serve out the unexpired term; and he may in like manner remove any member of said board. Each member of said board shall,

before entering upon the duties of his office, be sworn to a faithful discharge thereof. They shall at once organize by the choice of one of their number as chairman. Said board may appoint and remove a clerk of the board, who shall receive such salary as may be allowed by the board, but not exceeding twelve hundred dollars a year.

SEC. 2. The board shall, as soon as possible after its organization, establish such rules of procedure as shall be approved by the governor and council.

SEC. 3 (as amended by chapter 269, acts of 1887). Whenever any controversy or difference, not involving questions which may be the subject of a suit at law or bill in equity, exists between an employer, whether an individual, copartnership or corporation, and his employees, if at the time he employs not less than twenty-five persons in the same general line of business in any city or town in this Commonwealth, the board shall, upon application as hereinafter provided, and as soon as practicable thereafter, visit the locality of the dispute and make careful inquiry into the cause thereof, hear all persons interested therein who may come before them, advise the respective parties what, if anything, ought to be done or submitted to by either or both to adjust said dispute, and make a written decision thereof. This decision shall at once be made public, shall be recorded upon proper books of record to be kept by the secretary of said board, and a short statement thereof published in the annual report hereinafter provided for, and the said board shall cause a copy thereof to be filed with the clerk of the city or town where said business is carried on.

SEC. 4 (as amended by chapter 269, acts of 1887, and chapter 385, acts of 1890). Said application shall be signed by said employer, or by a majority of his employees in the department of the business in which the controversy or difference exists, or their duly authorized agent or by both parties, and shall contain a concise statement of the grievances complained of, and a promise to continue on in business or at work without any lockout or strike until the decision of said board, if it shall be made within three weeks of the date of filing said application. When an application is signed by an agent claiming to represent a majority of such employees, the board shall satisfy itself that such agent is duly authorized in writing to represent such employees, but the names of the employees giving such authority shall be kept secret by said board. As soon as may be after the receipt of said application the secretary of said board shall cause public notice to be given of the time and place for the hearing thereon; but public notice need not be given when both parties to the controversy join in the application and present therewith a written request that no public notice be given. When such request is made, notice shall be given to the parties interested in such manner as the board may order, and the board may, at any stage of the proceedings, cause public notice to be given, notwithstanding such request. When notice has been given as aforesaid, each of the parties to the controversy, the employer on the one side, and the employees interested on the other side, may in writing nominate, and the board may appoint, one person to act in the case as expert assistant to the board. The two persons so appointed shall be skilled in and conversant with the business or trade concerning which the dispute has arisen. It shall be their duty under the direction of the board to obtain and report to the board information concerning the wages paid and the methods and grades of work prevailing in manufacturing estab-

lishments within the Commonwealth of a character similar to that in which the matters in dispute may have arisen. Said expert assistants shall be sworn to the faithful discharge of their duty; such oath to be administered by any member of the board, and a record thereof shall be preserved with the record of the proceedings in the case. They shall be entitled to receive from the treasury of the Commonwealth such compensation as shall be allowed and certified by the board, together with all necessary traveling expenses. Nothing in this act shall be construed to prevent the board from appointing such other additional expert assistant or assistants as it may deem necessary. Should the petitioner or petitioners fail to perform the promise made in said application, the board shall proceed no further thereupon without the written consent of the adverse party. The board shall have power to summon as witness any operative in the departments of business affected, and any person who keeps the records of wages earned in those departments, and to examine them under oath, and to require the production of books containing the record of wages paid. Summonses may be signed and oaths administered by any member of the board.

SEC. 5. Upon the receipt of such application and after such notice, the board shall proceed as before provided and render a written decision, which shall be open to public inspection, shall be recorded upon the records of the board and published at the discretion of the same, in an annual report to be made to the general court on or before the first day of February in each year.

SEC. 6. Said decision shall be binding upon the parties who join in said application for six months, or until either party has given the other notice in writing of his intention not to be bound by the same at the expiration of sixty days therefrom. Said notice may be given to said employees by posting the same in three conspicuous places in the shop or factory where they work.

SEC. 7 (as amended by chapter 269, acts of 1887). The parties to any controversy or difference as described in section three of this act may submit the matters in dispute, in writing, to a local board of arbitration and conciliation; such board may either be mutually agreed upon, or the employer may designate one of the arbitrators, the employees or their duly authorized agent another, and the two arbitrators so designated may choose a third, who shall be chairman of the board. Such board shall, in respect to the matters referred to it, have and exercise all the powers which the State board might have and exercise, and its decision shall have whatever binding effect may be agreed by the parties to the controversy in the written submission. The jurisdiction of such board shall be exclusive in respect to the matters submitted to it, but it may ask and receive the advice and assistance of the State board. The decision of such board shall be rendered within ten days of the close of any hearing held by it; such decision shall at once be filed with the clerk of the city or town in which the controversy or difference arose, and a copy thereof shall be forwarded to the State board. Each of such arbitrators shall be entitled to receive from the treasury of the city or town in which the controversy or difference that is the subject of the arbitration exists, if such payment is approved in writing by the mayor of such city or the board of selectmen of such town, the sum of three dollars for each day of actual service, not exceeding ten days for any one arbitration. Whenever it is made to appear to the mayor of a city or the

board of selectmen of a town that a strike or lockout such as described in section eight of this act is seriously threatened or actually occurs, the mayor of such city or the board of selectmen of such town shall at once notify the State board of the facts.

SEC. 8 (as amended by chapter 269, acts of 1887). Whenever it shall come to the knowledge of the State board, either by notice from the mayor of a city or the board of selectmen of a town, as provided in the preceding section or otherwise, that a strike or lockout is seriously threatened or has actually occurred in any city or town of the Commonwealth, involving an employer and his present or past employees, if at the time he is employing, or up to the occurrence of the strike or lockout was employing not less than twenty-five persons in the same general line of business in any city or town in the Commonwealth, it shall be the duty of the State board to put itself in communication as soon as may be with such employer and employees, and endeavor by mediation to effect an amicable settlement between them, or to endeavor to persuade them, provided that a strike or lockout has not actually occurred or is not then continuing, to submit the matters in dispute to a local board of arbitration and conciliation, as above provided, or to the State board; and said State board may, if it deems it advisable, investigate the cause or causes of such controversy and ascertain which party thereto is mainly responsible or blameworthy for the existence or continuance of the same, and may make and publish a report finding such cause or causes and assigning such responsibility or blame. The board shall have the same powers for the foregoing purposes as are given it by section three of this act.

SEC. 9. Witnesses summoned by the State board shall be allowed the sum of fifty cents for each attendance, and the further sum of twenty-five cents for each hour of attendance in excess of two hours and shall be allowed five cents a mile for travel each way from their respective places of employment or business to the place where the board is in session. Each witness shall certify in writing the amount of his travel and attendance, the amount due him shall be paid forthwith by the board, and for such purpose the board shall be entitled to draw from the treasury of the Commonwealth as provided for in chapter one hundred and seventy-nine of the acts of the year eighteen hundred and eighty-four.

Those States whose statutes agree with that of Massachusetts in the particular of forming a permanent State body are California, Colorado, Connecticut, Idaho, Indiana, Louisiana, Massachusetts, Michigan, Minnesota, Montana, New Jersey, New York, Ohio, Utah, and Wisconsin.

It will be noticed that section 7 of the above statute of Massachusetts provides for the formation of local boards of arbitration. The statutes of Colorado, Idaho, Minnesota, Montana, New Jersey, New York, Ohio, and Wisconsin contain the same provision.

Section 8 of the Massachusetts act provides that the State board shall attempt to mediate between the employer and his employees whenever they shall hear that a strike or lockout is threatened or has occurred, etc. The States of Colorado, Connecticut, Idaho, Indiana, Louisiana, Michigan, Minnesota, Missouri, Montana, New Jersey, New York, Ohio, Utah, and Wisconsin also have this provision.

The State of Colorado also has a statute, section 307 of the Annotated Statutes of 1891, which provides for an attempt at mediation similar to that above, but to be made by the State commissioner of labor statistics. It reads as follows:

SECTION 307. If any difference shall arise between any corporation or person, employing twenty-five or more employees, and such employees, threatening to result or resulting in a strike on the part of such employees, or a lockout on the part of such employer, it shall be the duty of the commissioner [of labor], when requested so to do by fifteen or more of said employees, or by the employers, to visit the place of such disturbance, and diligently seek to mediate between such employer and employees.

The statute of the State of Missouri, a part of the Revised Statutes of 1889, is somewhat similar to that of Colorado, above, and also provides for the formation of a temporary board of arbitration to act in any particular case, if the commissioner of labor fails in his efforts to mediate. It appears below:

SECTION 6354. Upon information furnished by an employer of laborers, or by a committee of employees, or from any other reliable source, that a dispute has arisen between employers and employees, which dispute may result in a strike or lockout, the commissioner of labor statistics and inspection shall at once visit the place of dispute and seek to mediate between the parties, if in his discretion it is necessary so to do.

SEC. 6355. If a mediation can not be effected, the commissioner may at his discretion direct the formation of a board of arbitration, to be composed of two employers and two employees engaged in a similar occupation to the one in which the dispute exists, but who are not parties to the dispute, and the commissioner of labor statistics and inspection, who shall be president of the board.

SEC. 6356. The board shall have power to summon and examine witnesses, and hear the matter in dispute, and, within three days after the investigation, render a decision thereon, which shall be published, a copy of which shall be furnished each party in dispute, and shall be final, unless objections are made by either party within five days thereafter: *Provided*, That the only effect of the investigation herein provided for shall be to give the facts leading to such dispute to the public through an unbiased channel.

SEC. 6357. In no case shall a board of arbitration be formed when work has been discontinued, either by action of the employer or the employees; should, however, a lockout or strike have occurred before the commissioner of labor statistics could be notified, he may order the formation of a board of arbitration upon resumption of work.

SEC. 6358. The board of arbitration shall appoint a clerk at each session of the board, who shall receive three dollars per day for his services, to be paid, upon approval by the commissioner of labor statistics, out of the fund appropriated for expenses of the bureau of labor statistics.

This act has an unusual provision to the effect that a board of arbitration may be appointed by the commissioner of labor in "his discretion," without the request or even the consent of even one of the

parties, after the failure of an attempt on his part to mediate, and that the decision of a board so formed shall be "final" unless objection is made by either party within five days of its rendition. This looks like compulsory arbitration, but the law itself makes it clear that such decision can not be used to compel either party to perform any act or acts contrary to its desire, for, as provided therein, its only effect is "to give the facts leading to such dispute to the public through an unbiased channel."

Although the State of Indiana is included in the above list of States having statutes providing for permanent boards of arbitration, yet its statute, being chapter 128, acts of 1899, has many features quite different from those of the other States in the same class, and is therefore given in full below:

SECTION 1. There shall be, and is hereby, created a commission to be composed of two electors of the State, which shall be designated the labor commission, and which shall be charged with the duties and vested with the powers hereinafter enumerated.

SEC. 2. The members of said commission shall be appointed by the governor, by and with the advice and consent of the senate, and shall hold office for four years and until their successors shall have been appointed and qualified. One of said commissioners shall have been for not less than ten years of his life an employee for wages in some department of industry in which it is usual to employ a number of persons under single direction and control, and shall be at the time of his appointment affiliated with the labor interest as distinguished from the capitalist or employing interest. The other of said commissioners shall have been for not less than ten years an employer of labor for wages in some department of industry in which it is usual to employ a number of persons under single direction and control, and shall be at the time of his appointment affiliated with the employing interest as distinguished from the labor interest. Neither of said commissioners shall be less than forty years of age; they shall not be members of the same political party, and neither of them shall hold any other State, county, or city office in Indiana during the term for which he shall have been appointed. Each of said commissioners shall take and subscribe an oath, to be indorsed upon his commission, to the effect that he will punctually, honestly, and faithfully discharge his duties as such commissioner.

SEC. 3. Said commission shall have a seal and shall be provided with an office at Indianapolis, and may appoint a secretary who shall be a skillful stenographer and typewriter, and shall receive a salary of six hundred dollars per annum and traveling expenses for every day spent in the discharge of duty away from Indianapolis.

SEC. 4. It shall be the duty of said commissioners upon receiving credible information in any manner of the existence of any strike, lockout, boycott, or other labor complication in this State, to go to the place where such complication exists, put themselves into communication with the parties to the controversy and offer their services as mediators between them. If they shall not succeed in effecting an amicable adjustment of the controversy in that way they shall endeavor to

induce the parties to submit their differences to arbitration, either under the provisions of this act or otherwise, as they may elect.

SEC. 5. For the purpose of arbitration under this act, the labor commissioners and the judge of the circuit court, of the county in which the business in relation to which the controversy shall arise, shall have been carried on, shall constitute a board of arbitrators, to which may be added, if the parties so agree, two other members, one to be named by the employer and the other by the employees in the arbitration agreement. If the parties to the controversy are a railroad company and employees of the company engaged in the running of trains, any terminal, within this State, of the road, or of any division thereof, may be taken and treated as the location of the business within the terms of this section for the purpose of giving jurisdiction to the judge of the circuit court to act as a member of the board of arbitration.

SEC. 6. An agreement to enter into arbitration under this act shall be in writing, and shall state the issue to be submitted and decided, and shall have the effect of an agreement by the parties to abide by and perform the award. Such agreement may be signed by the employer as an individual, firm, or corporation, as the case may be, and execution of the agreement in the name of the employer by any agent or representative of such employer then and there in control or management of the business or department of business in relation to which the controversy shall have arisen, shall bind the employer. On the part of the employees, the agreement may be signed by them in their own person, not less than two-thirds of those concerned in the controversy signing, or it may be signed by a committee by them appointed. Such committee may be created by election at a meeting of the employees concerned in the controversy at which not less than two-thirds of all such employees shall be present, which election and the fact of the presence of the required number of employees at the meeting shall be evidenced by the affidavit of the chairman and secretary of such meeting attached to the arbitration agreement, but any employee concerned in any such controversy shall be accorded a hearing before such board. If the employees concerned in the controversy, or any of them, shall be members of any labor union or workingmen's society, they may be represented in the execution of said arbitration agreement by officers or committeemen of the union or society designated by it in any manner conformable to its usual methods of transacting business, and others of the employees represented by committee as hereinbefore provided.

SEC. 7. If upon any occasion calling for the presence and intervention of the labor commissioners under the provisions of this act, one of said commissioners shall be present and the other absent, the judge of the circuit court of the county in which the dispute shall have arisen, as defined in section 5, shall, upon the application of the commissioners present, appoint a commissioner pro tem. in the place of the absent commissioner, and such commissioner pro tem. shall exercise all the powers of a commissioner under this act until the termination of the duties of the commission with respect to the particular controversy upon the occasion of which the appointment shall have been made, and shall receive the same pay and allowances provided by this act for the other commissioners. Such commissioner pro tem. shall represent and be affiliated with the same interests as the absent commissioner.

SEC. 8. Before entering upon their duties the arbitrators shall take and subscribe an oath or affirmation to the effect that they will honestly and impartially perform their duties as arbitrators and a just and fair award render to the best of their ability. The sittings of the arbitrators shall be in the court room of the circuit court, or such other place as shall be provided by the county commissioners of the county in which the hearing is had. The circuit judge shall be the presiding member of the board. He shall have power to issue subpœnas for witnesses who do not appear voluntarily, directed to the sheriff of the county, whose duty it shall be to serve the same without delay. He shall have power to administer oaths and affirmations to witnesses, enforce order, and direct and control the examinations. The proceedings shall be informal in character, but in general accordance with the practice governing the circuit courts in the trial of civil causes. All questions of practice, or questions relating to the admission of evidence shall be decided by the presiding member of the board summarily and without extended argument. The sittings shall be open and public or with closed doors, as the board shall direct. If five members are sitting as such board three members of the board agreeing shall have power to make an award, otherwise two. The secretary of the commission shall attend the sittings and make a record of the proceedings in shorthand, but shall transcribe so much thereof only as the commission shall direct.

SEC. 9. The arbitrators shall make their award in writing and deliver the same with the arbitration agreement and their oath as arbitrators to the clerk of the circuit court of the county in which the hearing was had, and deliver a copy of the award to the employer and a copy to the first signer of the arbitration agreement on the part of the employees. A copy of all the papers shall also be preserved in the office of the commission at Indianapolis.

SEC. 10. The clerk of the circuit court shall record the papers delivered to him as directed in the last preceding section, in the order book of the circuit court. Any person who was a party to the arbitration proceedings may present to the circuit court of the county in which the hearing was had, or the judge thereof in vacation, a verified petition referring to the proceedings and the record of them in the order book and showing that said award has not been complied with, stating by whom and in what respect it has been disobeyed. And thereupon the court, or judge thereof in vacation, shall grant a rule against the party or parties so charged, to show cause within five days why said award has not been obeyed, which shall be served by the sheriff as other process. Upon return made to the rule the judge or court, if in session, shall hear and determine the questions presented and make such order or orders directed to the parties before him in personam, as shall give just effect to the award. Disobedience by any party to such proceedings of any order so made shall be deemed a contempt of the court and may be punished accordingly. But such punishment shall not extend to imprisonment except in case of willful and contumacious disobedience. In all proceedings under this section the award shall be regarded as presumptively binding upon the employer and all employees who were parties to the controversy submitted to arbitration, which presumption shall be overcome only by proof of dissent from the submission delivered to the arbitrators, or one of them, in writing before the commencement of the hearing.

SEC. 11. The labor commission, with the advice and assistance of the attorney-general of the State, which he is hereby required to render, may make rules and regulations respecting proceedings in arbitrations under this act not inconsistent with this act or the law, including forms, and cause the same to be printed and furnished to all persons applying therefor, and all arbitration proceedings under this act shall thereafter conform to such rules and regulations.

SEC. 12. Any employer and his employees, not less than twenty-five in number, between whom differences exist which have not resulted in any open rupture or strike, may of their own motion apply to the labor commission for arbitration of their differences, and upon the execution of an arbitration agreement as hereinbefore provided a board of arbitrators shall be organized in the manner hereinbefore provided, and the arbitration shall take place and the award be rendered, recorded, and enforced in the same manner as in arbitrations under the provisions found in the preceding sections of this act.

SEC. 13. In all cases arising under this act requiring the attendance of a judge of the circuit court as a member of an arbitration board, such duty shall have precedence over any other business pending in his court, and if necessary for the prompt transaction of such other business it shall be his duty to appoint some other circuit judge or judge of a superior or the appellate or supreme court to sit in the circuit court in his place during the pendency of such arbitration, and such appointee shall receive the same compensation for his services as is now allowed by law to judges appointed to sit in case of change of judge in civil actions. In case the judge of the circuit court, whose duty it shall become under this act to sit upon any board of arbitration, shall be at the time actually engaged in a trial which can not be interrupted without loss and injury to the parties, and which will in his opinion continue for more than three days to come, or is disabled from acting by sickness or otherwise, it shall be the duty of such judge to call in and appoint some other circuit judge, or some judge of a superior court, or the appellate or supreme court, to sit upon such board of arbitration, and such appointed judge shall have the same power and perform the same duties as member of the board of arbitration as are by this act vested in and charged upon the circuit judge regularly sitting, and he shall receive the same compensation now provided by law to a judge sitting by appointment upon a change of judge in civil cases to be paid in the same way.

SEC. 14. If the parties to any such labor controversy as is defined in section 4 of this act shall have failed at the end of five days after the first communication of said labor commission with them to adjust their differences amicably, or to agree to submit the same to arbitration, it shall be the duty of the labor commission to proceed at once to investigate the facts attending the disagreement. In this investigation the commission shall be entitled, upon request, to the presence and assistance of the attorney-general of the State, in person or by deputy, whose duty it is hereby made to attend without delay, upon request by letter or telegram from the commission. For the purpose of such investigation the commission shall have power to issue subpœnas, and each of the commissioners shall have power to administer oaths and affirmations. Such subpœna shall be under the seal of the commission and signed by the secretary of the commission, or a member of it, and shall command the attendance of the person or persons

named in it at a time and place named, which subpœna may be served and returned as other process by any sheriff or constable in the State. In case of disobedience of any such subpœna, or the refusal of any witness to testify, the circuit court of the county within which the subpœna was issued, or the judge thereof in vacation, shall, upon the application of the labor commission, grant a rule against the disobeying person or persons, or the person refusing to testify, to show cause forthwith why he or they should not obey such subpœna, or testify, as required by the commission, or be adjudged guilty of contempt, and in such proceedings such court, or the judge thereof in vacation, shall be empowered to compel obedience to such subpœna as in the case of subpœna issued under the order and by authority of the court, or to compel a witness to testify as witnesses in court are compelled to testify. But no person shall be required to attend as a witness at any place outside the county of his residence. Witnesses called by the labor commission under this section shall be paid $1 per diem fees out of the expense fund provided by this act, if such payment is claimed at the time of their examination.

SEC. 15. Upon the completion of the investigation authorized by the last preceding section, the labor commission shall forthwith report the facts thereby disclosed affecting the merits of the controversy in succinct and condensed form to the governor, who, unless he shall perceive good reason to the contrary, shall at once authorize such report to be given out for publication. And as soon thereafter as practicable, such report shall be printed under the direction of the commission and a copy shall be supplied to anyone requesting the same.

SEC. 16. Any employer shall be entitled, in his response to the inquiries made of him by the commission in the investigation provided for in the last two preceding sections, to submit in writing to the commission, a statement of any facts material to the inquiry, the publication of which would be likely to be injurious to his business, and the facts so stated shall be taken and held as confidential, and shall not be disclosed in the report or otherwise.

SEC. 17. Said commissioners shall receive a compensation of eighteen hundred dollars each per annum, and actual and necessary traveling expenses while absent from home in the performance of duty, and each of the two members of a board of arbitration chosen by the parties under the provisions of this act shall receive five dollars per day compensation for the days occupied in service upon the board. The attorney-general, or his deputy, shall receive his necessary and actual traveling expenses while absent from home in the service of the commission. Such compensation and expenses shall be paid by the treasurer of state upon warrants drawn by the auditor upon itemized and verified accounts of time spent and expenses paid. All such accounts, except those of the commissioners, shall be certified as correct by the commissioners, or one of them, and the accounts of the commissioners shall be certified by the secretary of the commission.

SEC. 18. For the payment of the salary of the secretary of the commission, the compensation of the commissioners and other arbitrators, the traveling and hotel expenses herein authorized to be paid, and for witness fees, stationery, postage, telegrams, and office expenses there is hereby appropriated out of any money in the treasury, not otherwise appropriated, the sum of five thousand dollars for the year 1899 and five thousand dollars for the year 1900.

Certain other States have statutes providing for the appointment of temporary "boards" or "tribunals of arbitration" and "courts of conciliation." They are as follows:

Iowa, chapter 20, acts of 1886. This statute provides in effect that a tribunal of voluntary arbitration may be formed to arbitrate in any particular case under a license or authority to establish the same, issued by any district court upon the presentation to said court of a petition or agreement signed by both parties to the dispute, the employer and his employees, and that when such a tribunal has been formed it shall exist for one year, and during that time may hear any disputes presented to it by the agreement of both parties.

Maryland, sections 1 to 6 of article 7, Code of Public General Laws of 1888. This law provides that upon the agreement of both parties to a dispute any judge or justice of the peace in the State may hear and arbitrate the matter between them or may appoint a board of arbitration to so do.

Pennsylvania, two statutes, being sections 67 to 80, inclusive, on page 133 of the Digest of 1895, and sections 1 to 9, inclusive, on page 290 of said digest. The first act provides for the appointment of courts of conciliation by certain judges upon the presentation of a petition or agreement signed by both parties; that one such tribunal may be appointed for each of iron, steel, glass, textile fabrics, and coal trades in each judicial district and may continue in existence for one year; the second provides for the formation of boards of arbitration upon the application, not only of both the parties to the controversy, but also upon the application of one side only. This differs from all the other statutes heretofore considered in that the consent of both parties to the arbitration is not necessary, and the arbitration thereunder is not of necessity voluntary, but may be forced upon one party at the request of the other, the decision of the board being, under this law, "final and conclusive of all matters brought before it for judgment." This latter statute of Pennsylvania does not seem to have come before the courts for interpretation, and should it ever do so, it will be of interest to see if an act which might force one party against his will either to take part in arbitration proceedings, or, if he refuses so to do, to abide by a decision rendered in his absence, will stand the test of the Constitution. But one other State, Kansas (see page 67), has a statute providing for compulsory arbitration. Said statute does not, however, belong to the class considered above, which provides for the formation of temporary boards of arbitration, and will therefore be considered later.

The last State coming in this class is Texas, whose statute, chapter 61, acts of 1895, provides for the formation of a board by the mutual agreement of the two parties to a labor dispute; that said board, having been organized, may petition the district judge of the county

where the dispute arose for a license, which shall be granted by him, and he shall refer to it the matters in dispute if all requirements of the statute have been complied with, and that the decision of such board is final unless within ten days from the making of the same an appeal is taken to the court of civil appeals.

The State of Kansas, in chapter 28, acts of 1898–99, creates a "court of visitation," which, among other powers, has the power of supervision of railroads, and to hear and decide upon its own volition all matters in dispute between an employing railroad corporation and its employees in case of a strike. The statute is in the following language:

SECTION 1. A court of record to be known as the court of visitation, consisting of a chief judge and two associate judges (a majority of whom shall constitute a quorum), is hereby created. The senior judge in service shall be the chief judge; but in case two or more judges shall have served equal time the judges shall select a chief judge. No person shall hold the office of judge who is interested in any railroad company or any of the stocks or bonds thereof, or who is an officer or employee of any railroad company, nor shall any such judge hold any other office under the United States or this State, or engage in the practice of law, during his term of office. Any elector of the State not disqualified by the provisions of this act shall be eligible to the office of judge of said court. The court shall adopt a seal, which shall be furnished by the secretary of state.

SEC. 8. The court of visitation shall have power and jurisdiction throughout the State—

* * * * * * *

8th. To prescribe rules concerning the movement of trains, to secure the safety of employees and the public;

9th. To require the use of improved appliances and methods, to avoid accidents and injuries to persons;

* * * * * * *

SEC. 42. Whenever it shall be made to appear to said court by affidavit that a strike by the employees, or part of them, of any railroad company organized under the laws of this State or doing business therein is obstructing commerce or the traffic on such railroad and inconveniencing the public, or the people of any municipality, or endangers or threatens the public tranquillity, said court shall issue a citation requiring said corporation to appear before it, at a day and hour named, and make answer, verified by the positive oath of an officer or agent of said corporation residing in this State and then present therein, concerning the said strike, its extent, the cause or causes thereof, what conduct, if any, of said corporation or its officers led to such strike, and the precise point or points of dispute between said corporation and its striking employees. If said answer be not made at the time fixed, or be evasive, the court shall make a final decree as upon hearing and enforce the same as such. If said answer be properly made, the matter shall be without further delay summarily heard upon evidence; and if the corporation be found free from fault in the premises and the strike unreasonable, the court shall so find, and the said proceedings shall be dismissed; and thereupon, and upon

public notice as ordered by the court given of such decision, it shall be unlawful for said strikers or any of them to interfere in any manner whatever, by word or deed, with any other employees said corporation may employ and set to work. But if the court shall find that said corporation has failed in its duty toward its employees, or any of them, or has been unreasonable, tyrannical, oppressive, or unjust, and the strike resulted therefrom, the court shall so find specifically, and shall enter a decree commanding such corporation to proceed forthwith to perform its usual functions for the public convenience, and to the usual extent and with the usual facilities, as before said strike occurred; and if said decree shall not be implicitly obeyed, in full and in good faith, the court may take charge of said corporation's property and operate the same through a receiver or receivers appointed by said court until the court shall be satisfied that said corporation is prepared to fully resume its functions; all costs to be paid by said corporation. If, in answer to said original process ordering it to show cause as aforesaid, said corporation shall show to the court's satisfaction that said striking employees have resumed work and said strike has ended, the proceeding shall be dismissed. If in such answer it shall show to the court's satisfaction that said striking employees have resumed work under an agreement to remain in said corporation's service pending the hearing of the proceedings, and that the corporation will abide by the terms of said agreement, then, and only in such case, the hearing of said matter in controversy concerning the cause or causes of said strike may be postponed on request a reasonable time, or from time to time, while said employees so remain at work; and upon settlement of said strike said proceedings may be at any time dismissed; but if said employees again quit work, said matter shall be brought to an immediate hearing and decree, notwithstanding a pending postponement.

This act, while not in terms providing for compulsory arbitration, yet does so provide in effect. The court established by it is empowered, in case of a strike by the employees of any railroad company doing business in the State of Kansas, which causes an obstruction of commerce, etc., to cite the company before it, to hear witnesses, and to render a decision, whether the company or its employees, either or both, have been represented at the hearing or not. In order to enforce its decree as against the company said court is also empowered to take charge of the property of said company and to operate it through a receiver appointed by it.

A recent decision has been rendered by the United States circuit court, eighth circuit, district of Kansas, construing this statute and declaring it to be, in part at least, unconstitutional and void. In its opinion the following language was used by the court: "The law creating the court of visitation is in contravention of the constitution of the State of Kansas which inhibits the conferring of inconsistent legislative and judicial powers upon the same body, to be exercised regarding the same subject-matter. The act is either wholly void or void to the extent that it attempts to confer judicial powers upon that body. It is unnecessary to determine in this case whether the court

of visitation, though possessing no judicial functions, may still have and exercise the legislative and administrative powers specified in the acts of the legislature." Though the above case arose under different sections of the act than that shown above, said sections providing for the fixing of rates of charges by the board and enforcement of said rates when so fixed by the sequestration of the property of the company, placing it in the hands of a receiver, etc., yet its reasoning would seem to apply equally to said section 42.

If, however, it does not apply, still the further finding of the court in its decision to the effect that the sections under consideration were violative of the fourteenth amendment to the Constitution of the United States, as depriving the company of its property without due process of law, would certainly seem to apply to section 42.

The last to be mentioned of all the arbitration acts is the Federal statute, being chapter 370 of the acts of Congress of 1897–98. It applies only to common carriers engaged in interstate commerce, and provides for an attempt to be made at mediation by two government officials in case of any controversy between such a common carrier and its employees and for the formation of a board of arbitration consisting of the same officials, together with certain other parties to be selected in case the attempt at mediation fails. This board, however, is to be formed only at the request or upon the consent of both parties to the controversy; in other words, the arbitration, if had at all, is to be purely voluntary. The statute reads as follows:

SECTION 1. The provisions of this act shall apply to any common carrier or carriers and their officers, agents, and employees, except masters of vessels and seamen, as defined in section forty-six hundred and twelve, Revised Statutes of the United States, engaged in the transportation of passengers or property wholly by railroad, or partly by railroad and partly by water, for a continuous carriage or shipment, from one State or Territory of the United States, or the District of Columbia, to any other State or Territory of the United States, or the District of Columbia, or from any place in the United States to an adjacent foreign country, or from any place in the United States through a foreign country to any other place in the United States. The term "railroad" as used in this act shall include all bridges and ferries used or operated in connection with any railroad, and also all the road in use by any corporation operating a railroad, whether owned or operated under a contract, agreement, or lease; and the term "transportation" shall include all instrumentalities of shipment or carriage. The term "employees" as used in this act shall include all persons actually engaged in any capacity in train operation or train service of any description, and notwithstanding that the cars upon or in which they are employed may be held and operated by the carrier under lease or other contract: *Provided, however*, That this act shall not be held to apply to employees of street railroads and shall apply only to employees engaged in railroad train service. In every such case the carrier shall be responsible for the acts and defaults of such employees in the same manner and

to the same extent as if said cars were owned by it and said employees directly employed by it, and any provisions to the contrary of any such lease or other contract shall be binding only as between the parties thereto and shall not affect the obligations of said carrier either to the public or to the private parties concerned.

SEC. 2. Whenever a controversy concerning wages, hours of labor, or conditions of employment shall arise between a carrier subject to this act and the employees of such carrier, seriously interrupting or threatening to interrupt the business of said carrier, the chairman of the Interstate Commerce Commission and the Commissioner of Labor shall, upon the request of either party to the controversy, with all practicable expedition, put themselves in communication with the parties to such controversy, and shall use their best efforts, by mediation and conciliation, to amicably settle the same; and if such efforts shall be unsuccessful, shall at once endeavor to bring about an arbitration of said controversy in accordance with the provisions of this act.

SEC. 3. Whenever a controversy shall arise between a carrier subject to this act and the employees of such carrier which can not be settled by mediation and conciliation in the manner provided in the preceding section, said controversy may be submitted to the arbitration of a board of three persons, who shall be chosen in the manner following: One shall be named by the carrier or employer directly interested; the other shall be named by the labor organization to which the employees directly interested belong, or, if they belong to more than one, by that one of them which specially represent employees of the same grade and class and engaged in services of the same nature as said employees so directly interested: *Provided, however*, That when a controversy involves and affects the interest of two or more classes and grades of employees belonging to different labor organizations, such arbitrator shall be agreed upon and designated by the concurrent action of all such labor organizations; and in cases where the majority of such employees are not members of any labor organization, said employees may by a majority vote select a committee of their own number, which committee shall have the right to select the arbitrator on behalf of said employees. The two thus chosen shall select the third commissioner of arbitration; but, in the event of their failure to name such arbitrator within five days after their first meeting, the third arbitrator shall be named by the commissioners named in the preceding section. A majority of said arbitrators shall be competent to make a valid and binding award under the provisions hereof. The submission shall be in writing, shall be signed by the employer and by the labor organization representing the employees, shall specify the time and place of meeting of said board of arbitration, shall state the questions to be decided, and shall contain appropriate provisions by which the respective parties shall stipulate, as follows:

First. That the board of arbitration shall commence their hearings within ten days from the date of the appointment of the third arbitrator, and shall find and file their award, as provided in this section, within thirty days from the date of the appointment of the third arbitrator; and that pending the arbitration the status existing immediately prior to the dispute shall not be changed: *Provided*, That no employee shall be compelled to render personal service without his consent.

Second. That the award and the papers and proceedings, including the testimony relating thereto certified under the hands of the arbitra-

tors and which shall have the force and effect of a bill of exceptions, shall be filed in the clerk's office of the circuit court of the United States for the district wherein the controversy arises or the arbitration is entered into, and shall be final and conclusive upon both parties, unless set aside for error of law apparent on the record.

Third. That the respective parties to the award will each faithfully execute the same, and that the same may be specifically enforced in equity so far as the powers of a court of equity permit: *Provided*, That no injunction or other legal process shall be issued which shall compel the performance by any laborer against his will of a contract for personal labor or service.

Fourth. That employees dissatisfied with the award shall not by reason of such dissatisfaction quit the service of the employer before the expiration of three months from and after the making of such award without giving thirty days' notice in writing of their intention so to quit. Nor shall the employer dissatisfied with such award dismiss any employee or employees on account of such dissatisfaction before the expiration of three months from and after the making of such award without giving thirty days' notice in writing of his intention so to discharge.

Fifth. That said award shall continue in force as between the parties thereto for the period of one year after the same shall go into practical operation, and no new arbitration upon the same subject between the same employer and the same class of employees shall be had until the expiration of said one year if the award is not set aside as provided in section four. That as to individual employees not belonging to the labor organization or organizations which shall enter into the arbitration, the said arbitration and the award made therein shall not be binding, unless the said individual employees shall give assent in writing to become parties to said arbitration.

SEC. 4. The award being filed in the clerk's office of a circuit court of the United States, as hereinbefore provided, shall go into practical operation, and judgment shall be entered thereon accordingly at the expiration of ten days from such filing, unless within such ten days either party shall file exceptions thereto for matter of law apparent upon the record, in which case said award shall go into practical operation and judgment be entered accordingly when such exceptions shall have been finally disposed of either by said circuit court or on appeal therefrom.

At the expiration of ten days from the decision of the circuit court upon exceptions taken to said award, as aforesaid, judgment shall be entered in accordance with said decision unless during said ten days either party shall appeal therefrom to the circuit court of appeals. In such case only such portion of the record shall be transmitted to the appellate court as is necessary to the proper understanding and consideration of the questions of law presented by said exceptions and to be decided.

The determination of said circuit court of appeals upon said questions shall be final, and being certified by the clerk thereof to said circuit court, judgment pursuant thereto shall thereupon be entered by said circuit court.

If exceptions to an award are finally sustained, judgment shall be entered setting aside the award. But in such case the parties may agree upon a judgment to be entered disposing of the subject matter

of the controversy, which judgment when entered shall have the same force and effect as judgment entered upon an award.

SEC. 5. For the purposes of this act the arbitrators herein provided for, or either of them, shall have power to administer oaths and affirmations, sign subpœnas, require the attendance and testimony of witnesses, and the production of such books, papers, contracts, agreements, and documents material to a just determination of the matters under investigation as may be ordered by the court; and may invoke the aid of the United States courts to compel witnesses to attend and testify and to produce such books, papers, contracts, agreements, and documents to the same extent and under the same conditions and penalties as is provided for in the act to regulate commerce, approved February fourth, eighteen hundred and eighty-seven, and the amendments thereto.

SEC. 6. Every agreement of arbitration under this act shall be acknowledged by the parties before a notary public or clerk of a district or circuit court of the United States, and when so acknowledged a copy of the same shall be transmitted to the chairman of the Interstate Commerce Commission, who shall file the same in the office of said commission.

Any agreement of arbitration which shall be entered into conforming to this act, except that it shall be executed by employees individually instead of by a labor organization as their representative, shall, when duly acknowledged as herein provided, be transmitted to the chairman of the Interstate Commerce Commission, who shall cause a notice in writing to be served upon the arbitrators, fixing a time and place for a meeting of said board, which shall be within fifteen days from the execution of said agreement of arbitration: *Provided, however*, That the said chairman of the Interstate Commerce Commission shall decline to call a meeting of arbitrators under such agreement unless it be shown to his satisfaction that the employees signing the submission represent or include a majority of all employees in the service of the same employer and of the same grade and class, and that an award pursuant to said submission can justly be regarded as binding upon all such employees.

SEC. 7. During the pendency of arbitration under this act it shall not be lawful for the employer, party to such arbitration, to discharge the employees, parties thereto, except for inefficiency, violation of law, or neglect of duty; nor for the organization representing such employees to order, nor for the employees to unite in, aid, or abet, strikes against said employer; nor, during a period of three months after an award under such an arbitration, for such employer to discharge any such employees, except for the causes aforesaid, without giving thirty days' written notice of an intent so to discharge; nor for any of such employees, during a like period, to quit the service of said employer without just cause, without giving to said employer thirty days' written notice of an intent so to do; nor for such organization representing such employees to order, counsel, or advise otherwise. Any violation of this section shall subject the offending party to liability for damages: *Provided*, That nothing herein contained shall be construed to prevent any employer, party to such arbitration, from reducing the number of its or his employees whenever in its or his judgment business necessities require such reduction.

SEC. 8. In every incorporation under the provisions of chapter five

hundred and sixty-seven of the United States Statutes of eighteen hundred and eighty-five and eighteen hundred and eighty-six it must be provided in the articles of incorporation and in the constitution, rules, and by-laws that a member shall cease to be such by participating in or by instigating force or violence against persons or property during strikes, lockouts, or boycotts, or by seeking to prevent others from working through violence, threats, or intimidations. Members of such incorporations shall not be personally liable for the acts, debts, or obligations of the corporations, nor shall such corporations be liable for the acts of members or others in violation of law; and such corporations may appear by designated representatives before the board created by this act, or in any suits or proceedings for or against such corporations or their members in any of the Federal courts.

SEC. 9. Whenever receivers appointed by Federal courts are in the possession and control of railroads, the employees upon such railroads shall have the right to be heard in such courts upon all questions affecting the terms and conditions of their employment, through the officers and representatives of their associations, whether incorporated or unincorporated, and no reduction of wages shall be made by such receivers without the authority of the court therefor upon notice to such employees, said notice to be not less than twenty days before the hearing upon the receivers' petition or application, and to be posted upon all customary bulletin boards along or upon the railway operated by such receiver or receivers.

SEC. 11. Each member of said board of arbitration shall receive a compensation of ten dollars per day for the time he is actually employed, and his traveling and other necessary expenses; and a sum of money sufficient to pay the same, together with the traveling and other necessary and proper expenses of any conciliation or arbitration had hereunder, not to exceed ten thousand dollars in any one year, to be approved by the chairman of the Interstate Commerce Commission and audited by the proper accounting officers of the Treasury, is hereby appropriated for the fiscal years ending June thirtieth, eighteen hundred and ninety-eight, and June thirtieth, eighteen hundred and ninety-nine, out of any money in the Treasury not otherwise appropriated.

No arbitration has so far been had under this statute, nor has the statute itself been called in question in or construed by the courts.

EXECUTIVE AND JUDICIAL ACTION.

As to the second class of official action as made, viz, remedial action which may be taken by executive or judicial officials under authority of law, statute or common, the consideration of the same has inevitably been taken up to some extent in what has been already said. As an example of this, the action of boards of arbitrators in seeking to mediate may be mentioned.

ENFORCEMENT OF CRIMINAL LAW.

The enforcement of all law requires the action of officials, and wanting that, would remain a dead letter. To render effective any of the laws already discussed, action must be taken by State and Federal

authorities by arresting, indicting, and criminally prosecuting those offending against the provisions of the same, whether the particular offense be against the common or a statute law.

USE OF MILITARY FORCES.

Under the constitutions of the States the governor is the commander in chief of the military forces (militia), and under the laws he has the power to order the militia, or any part thereof, into active service in case of insurrection, invasion, tumult, riots, or breaches of the peace or imminent danger thereof. This action has frequently been taken in case of strikes, and although its object is to prevent or suppress violence threatened or happening to persons or property, its effect often is and must be to protect those working or desiring to work but interfered with by those threatening to use or using violence.

Section 4 of Article IV of the Constitution of the United States provides that the United States shall protect every State against domestic violence upon application of its legislature or of its executive (governor) when the legislature can not be convened. Under this section United States troops might be called into a State upon request of its authorities to protect employees in their work and the property of employers in cases of strikes accompanied with violence.

Sections 5298 and 5299 of the Revised Statutes of the United States provide that the President may, and it shall be his duty to, employ the land and naval forces of the United States whenever by reason of insurrection, domestic violence, unlawful obstructions, conspiracy, combinations, or assemblages of persons it becomes impracticable to enforce the laws of the United States by the ordinary course of judicial proceedings, and when the execution of the laws are so hindered by reason of such insurrection, etc., that any portion or class of the people are deprived thereby of any of the rights, privileges, immunities, or protection named in the Constitution and the laws. Under these sections when, in any State or States, the results of a strike or lockout or other labor trouble is to put Federal property in danger, to obstruct the carrying of the mails, to interfere with interstate commerce, or to prevent the enforcement of the decrees and mandates of the Federal courts, etc., it seems clear that the President has authority to use the military forces of the country to enforce the laws and protect the operation of affairs under the same. Such action has been taken in the case of the well-remembered "Chicago strike" of 1894.

In a case arising out of the above strike the United States Supreme Court, in enumerating the powers of the Federal Government to remove all obstructions to the conduct of interstate commerce or the passage of the mails, which removal would tend to the protection of workmen in their employment, used the following language: "Sum-

ming up our conclusions, we hold that the Government of the United States is one having jurisdiction over every foot of soil within its territory, and acting directly upon each citizen; that while it is a government of enumerated powers, it has within the limits of those powers all the attributes of sovereignty; that to it is committed power over interstate commerce and the transmission of the mail; that in the exercise of those powers it is competent for the nation to remove all obstructions upon highways, natural or artificial, to the passage of interstate commerce or the carrying of the mail; that if the emergency arises, the Army of the nation and all its militia are at the service of the nation to compel obedience to its laws; that while it may be competent for the Government to forcibly remove all such obstructions, it is equally within its competency to appeal to the civil courts for an inquiry and determination as to the existence and character of any alleged obstructions, and if such are found to exist, or threaten to occur, to invoke the powers of those courts to remove or restrain such obstructions; that the jurisdiction of courts to interfere in such matters by injunction is one recognized from ancient times and by indubitable authority; that the proceeding by injunction is of a civil character, and may be enforced by proceedings in contempt," etc.

INJUNCTION AND PUNISHMENT FOR CONTEMPT OF COURT.

The latter part of the above leads naturally to the consideration of the action which may be taken by judicial authorities which tends to the protection of the workman in his employment, and which will be the last point considered in this article. It is a principle of our law that when there are interferences, actual or threatened, with property or with rights of a pecuniary nature, and the common or statute law offers no adequate remedy for the prevention of irreparable injury, then the jurisdiction of a court of equity arises, and it may interpose upon a proper presentation of the facts and issue its order or injunction as to what must or must not be done. This jurisdiction is not destroyed by the fact that such interferences may be accompanied by or may be themselves violations of criminal law.

Thus in the case of labor disturbances growing out of strikes, etc., many of the acts of the strikers and their sympathizers, designed to hinder or obstruct the conduct of business, may be contrary to law and criminal offenses, for which certain penalties are provided, or, if not criminal, yet their results may be so disastrous to the rights and interests of others that civil actions for damages against the perpetrators might be maintained. As a rule, however, neither the criminal prosecution of offenders nor the successful prosecution of damage suits provides an adequate remedy for loss and annoyance suffered. Something is needed to be done to stop at once the destruction of

property, the obstruction of business, and the loss of employment by those willing to work. The necessary remedy is found in an injunction or order issued by the court and directed against the offenders, commanding them to cease from all illegal practices which tend to prevent the conduct of business by the employer, and, consequently, the working of employees willing to work.

In a proper case such an order will be issued by the courts, and if it is disobeyed the parties so violating it may be committed for contempt of court and punished by fine or imprisonment, or both. Such measures for the indirect protection of employees have frequently been taken by the judicial authorities of the States and by the Federal courts.

An attempt has been made in the above to thoroughly cover the ground in enumerating the methods by which the legally constituted authorities of the country can act in order to protect the workman in his employment when his equitable and legal rights therein are attacked. The mention of some statutes or of some principles of the common law may have been omitted in this article which might apply in such cases. Circumstances vary so much in particular cases that it may happen occasionally that a law enacted for an entirely different purpose might be used to warrant the remedial action of a public official in a case of the kind considered herein, although perhaps never previously thought of in that connection. The above is believed, however, to be a fairly complete presentation of the methods by which the laboring man who is ready and willing to work may be protected in so doing against the adverse acts of others.

FOREIGN LABOR LAWS. (*a*)

BY W. F. WILLOUGHBY.

BELGIUM. (*b*)

The general history of labor legislation in Belgium can be briefly told. With the exception of measures for the protection of the lives and health of employees in industries which were classed as dangerous, unhealthy, or nuisances, and for the regulation of her councils of prudhommes, Belgium may almost be said to have had no legislation relating specially to labor prior to the year 1886.

On April 15 of that year the King created a royal commission for the purpose of making an exhaustive investigation concerning the conditions of labor and the desirability of special legislation. This commission reported during the course of the years 1886 and 1887 in four bulky volumes. Rarely, if ever, has a commission of investigation been productive of equally important results. As the direct result of this report and the recommendations contained in it, laws have been enacted which cover in a fairly comprehensive way the field of labor legislation. The power possessed by the King to promulgate decrees

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a In the preceding Bulletin (No. 25) the labor laws of Great Britain and France were considered. In the present Bulletin those of Belgium and Switzerland are shown. The labor legislation of Germany and Austria will be given in a subsequent Bulletin.

b In the summary here given of the laws of Belgium use has in all cases been made of copies of the laws themselves. There is no compilation embracing all the laws considered. Those relating to factories and workshops, the payment of wages, shop regulations, etc., can best be consulted in—

Lois et règlements concernant le travail des femmes et des enfants, la police des établissements classés, le payement des salaires aux ouvriers, les règlements d'atelier et l'inspection du travail. Office du Travail, Belgique, 1898.

Revue du Travail. Published monthly since January, 1896, by the Office du Travail de Belgique, and containing all recent laws and decrees.

Annuaire de la législation du travail. 1re année, 1897; 2e année, 1898. Office du Travail, Belgique, 1898 and 1899.

In addition to these documents and copies of other laws, special use has been made of the following works:

Publications of the French Labor Bureau, notably the reports, Conciliation et arbitrage en France et à l'étranger, 1893, and Hygiène et sécurité des travailleurs dans les ateliers industriels, 1895.

Royal Commission on Labor, Great Britain. Foreign Reports: Belgium, 1893.

Conrad's Handwörterbuch der Staatswissenschaften, and the two supplemental volumes published in 1895 and 1897.

La législation protectrice en Belgique, par Louis Varlez. A report made to the Congrès International de Législation du Travail, à Bruxelles, 1897.

regulating conditions of labor in dangerous and unhealthy establishments was extended by a law so as to embrace all industries and even commercial establishments. The employment of women and children was regulated by another law and an important series of decrees issued in virtue of its provisions. The councils of prudhommes were reorganized by the enactment of a new organic law. An elaborate system of councils of industry and labor was created for the purpose of providing bodies through which both workingmen and employers might make known their wishes concerning labor matters, and by which labor difficulties might be avoided. Other laws have made the preparation and posting of shop regulations obligatory upon employers, have regulated the payment of wages to workingmen, have provided for the granting of the rights of civil personality to trade unions and for otherwise regulating these bodies, and have redetermined the law regarding strikes, picketing, and unlawful assembly. From the position of a country with but little legislation regarding labor, Belgium has thus within the past few years changed to one possessing laws in relation to most of the points embraced in the modern labor code.

RIGHT OF ASSOCIATION: TRADE UNIONS.

Guilds in Belgium were abolished by the decree of 17 Brumaire An IV (November 8, 1795). The present constitution of Belgium was adopted in 1831. Article 20 of this instrument provides that "Belgians shall have the right of forming associations, and this right shall not be limited by any preventive measures."

Under this provision citizens of Belgium have full freedom to form such organizations as they desire. While the right of union can not be limited, laws have been enacted for the purpose of conferring upon organizations certain privileges, such as the right of civil personality, or subjecting them to a certain amount of administrative control, such as the requirement of public reports. Special laws have thus been enacted in reference to trade associations, mutual-aid societies, and trade unions or labor organizations. It is of the latter alone that account need here be taken.

In 1886 the labor commission previously referred to drew up a bill for the purpose of conferring upon labor organizations the right of civil personality. The first step in this direction in Parliament was not taken until 1889, when the minister of justice introduced a measure having this purpose in view. Nothing came of this measure. In 1894 a new bill, differing in a number of essential points from that of 1889, was introduced by the minister of justice. This bill, after undergoing some modifications in the course of its consideration by Parliament, was finally enacted as the law of March 31, 1898. This law must necessarily exert a decided influence upon the development of labor organizations in the country. While its main purpose is to

permit trade unions to enjoy the rights of civil persons, it nevertheless relates to a good many other points. That it should do so was unavoidable, because it was necessary to determine the character that organizations of laborers should have in order to enjoy the right of civil personality, and the conditions under which that privilege will be conferred. In the summary of its provisions that follows it should be remembered that the law is not compulsory. Trade unions are free to take advantage of its provisions or not, just as they see fit.

"A trade union (*union professionnelle*)," as defined by the law, "is an association formed by persons following, in industry, commerce, agriculture, or the liberal professions, for the purpose of gain, either the same or similar professions (*professions*) or the same or similar trades (*métiers*) which cooperate in the production of the same products, having as its exclusive object the study, protection, and development of their trade interests."

Any organization comprehended in the above definition may enjoy the rights of civil persons within the limits and under the conditions set forth in the law. These limitations and conditions relate to the membership of unions, the lines of activity open to them, the general character of their constitutions and the recording of the latter with the proper administrative authority, the filing of annual reports and statements, the amount and kind of real estate that may be held, the manner of dissolving the unions, etc. The law thus determines in great detail the character that an organization must have, the general manner in which it must be administered, and what kind of work it can undertake and still profit by the provisions of the law.

A union must embrace at least seven effective members. Minors 16 years of age or over and married women may be members if the father, guardian, or husband does not oppose. When such opposition is offered, the minor or married woman may take the matter before a justice of the peace, who, after hearing the parties, will make a final decision. Minors, however, are only entitled to a deliberative voice. Honorary members, not to exceed one-quarter of the number of effective members, may be admitted even when they do not follow the trade to which the union relates. Persons who are excluded from taking part in the administration of a union and liquor dealers, unless they have followed the profession or trade during at least four years, may not be admitted as honorary members.

The provisions regarding the kinds of work in which unions can or can not engage are of especial importance. Generally, unions can not themselves follow a trade or profession. They may, however, (1) make contracts, purchases, and sales of materials required in connection with their apprenticeship shops; (2) purchase, for the purpose of reselling to their members, raw materials, seed grain, fertilizers, animals, machines and other instruments, and generally all objects

required by their members for the exercise of their trade; (3) purchase the products of their members for the purpose of reselling them; (4) conduct commission operations in reference to (2) and (3), and (5) purchase animals, machines, and other articles to be definitely retained by the unions, but to be placed at the disposition of the members with a view to their use in the pursuit of their trade.

In no case is a union permitted to make any profit by these transactions. The union may thus act in behalf of its members, but can not itself engage in business. When such operations are undertaken, a separate account, distinct from the other acts of the union, must be kept. A union may own and record trade-marks (*marques de fabrique ou de commerce*). It may permit their use by the members, but can realize no profit in that way.

Each union may frame its own constitution. This document, however, must contain the name of the union, the address of its headquarters, the object for which it is formed, the conditions upon which members are admitted or can leave the union, the manner in which the union is governed or its property managed, the terms of office of persons charged with the government of the union, the manner in which the funds will be invested, the method of regulating accounts, the procedure to be followed in case of a revision of the constitution or a dissolution of the union, the means by which the regulations of the union will be enforced, and an agreement to attempt the settlement of labor difficulties by means of conciliation or arbitration. There must be attached to the constitution a list of the persons who participate in any way in the administration of the affairs of the union or the management of its property, with a statement of their nationality, ages, residences, occupations, and whether active or honorary members, and a declaration signed by the directors, attesting that the union has been formed, as far as relates to its members, in conformity with the provisions of the law which define unions and specify the lines of work in which they may engage.

But little attempt is made by the law to declare how the foregoing provisions shall be framed. The only limitations upon the freedom of the unions in this respect are as follows: A member must always be given the right to resign from a union at any time, and when he does so he shall be required to pay only accrued and current dues. The government of a union can only be intrusted to Belgians or foreigners authorized to take up their residence within the Kingdom and actually residing there. Officers must be chosen by the union itself from among its adult members, and three-fourths at least must be selected from among the active members. Women may participate in the administration. The following persons can not be made officers or managers: Those who have been deprived by the law of June 23, 1894, of the right to be administrators of recognized mutual aid societies, and those

who directly, or indirectly through an agent, keep a place for the sale of spirituous liquors, unless the union is one formed among liquor sellers.

The term of office for officers can not exceed four years, and their appointment must always be revocable by the general assembly.

Unions are prohibited from investing their funds in shares of commercial companies.

The dissolution of a union or the modification of its constitution can only be determined upon by a majority vote, consisting of at least three-fourths of the members present at a general assembly specially summoned for that purpose, and composed of at least one-half of the members entitled to vote. No union can, for the purpose of enforcing its regulations, make provisions which affect injuriously the rights of persons who do not belong to it. In no case can such regulations be made the subject of a civil action.

An important feature of the law is that whereby a system of registration of labor unions, corresponding somewhat to that of Great Britain, is created. The records office (*greffe*) of the council of mines is made the registration bureau, and in it must be filed copies of the constitution and their appendixes of the unions. The law further provides that the council of mines shall designate three of its members to sit as a commission for the registration of trade unions in order to see that the conditions presented by the present law are complied with. This commission was formally constituted by the royal decree of June 30, 1898, which also determines the formalities to be followed in the registration of unions.

Every trade union which desires to possess the right of civil personality must make a formal application to the council of mines. This request must be signed by one or more of the officers of the union and be accompanied by two copies of the constitution, with its appendixes. All requests received will be acknowledged and entered upon a special register. Action upon a request must not be taken until the matter has been investigated and reported upon in writing by one of the members of the registration commission. The persons making the request may take a copy of this report if they so desire. The commission when it is judged proper may question any of the parties, and the latter have the right to be heard, or may file a written brief.

The commission must render its decision within three months from the filing of the constitution. It may, however, extend this time by notifying the union of the reasons for so doing. The decision, accompanied by the grounds upon which it is rendered, must be transmitted to the union within fifteen days after it is rendered. When favorable action is taken upon the request, the union will be declared registered, and the constitution and the appendixes will be published in the official journal (*Moniteur*) within the next fifteen days. This publication will

be in the form of appendixes, copies of which must be sent to the registrars of the courts of appeal, the lower courts, tribunals of commerce, justices of the peace, and councils of prudhommes, where they can be freely consulted and copied.

The union will enter upon the enjoyment of its rights as a civil person the tenth day after the publication of its constitution. All the appendixes giving the constitutions as above described must be assembled in a special collection.

Notice of the modification of the constitution of a union or the voluntary dissolution of the latter must be given to the council of mines in the same way as an original request for registration, and will be acted upon in the same way. Notice of any change in the officers or managers of a union must also be given, and must be duly approved by the commission.

Following the British system, provision is also made for the filing of annual reports by the unions. Before March 1 of each year each registered union must file with the commission of registration the following documents: (1) A statement of its receipts and expenditures down to and including December 31 preceding, and, when required, an account of its operations in respect to the purchase and sale of articles produced or consumed by its members, etc., as described above. These accounts must be made according to the forms prescribed by the Government. Before being filed by the union they must be submitted for approval to the general assembly, after having been during fifteen days open to the inspection of the members at the union's headquarters. They will only be made public when the union gives its consent. (2) A list of officers, their addresses, etc., and a declaration similar to that which must be attached to the constitution when registration is requested.

The royal decree of June 30, 1898, creating the registration commission, provides that the council of mines must transmit to the labor bureau (*office du travail*) the annual reports that are filed with it, in order that that bureau may prepare statistics of trade unions in the Kingdom. The council must also make an annual report concerning the execution of the law governing trade unions to the minister of industry and labor. Provision is thus made for the regular publication of information concerning trade unions.

Each union must keep on file at its headquarters a list of all its members where any member can consult it. This list must show, for each person, his name, surname, date of birth, occupation, address, and whether he is an active or honorary member.

A duly registered union may appear in court, either as complainant or defendant, for the defense of the individual rights of its members as such, without prejudice to the right these members have to act directly or to join together in an action. It shall especially have such

powers in respect to the execution of contracts entered into by the union in behalf of its members, and to actions for damages resulting from the nonexecution of these contracts. When there are no special provisions to the contrary in the constitution, a union will be represented in all judicial actions by its directors, or that particular one of them who has been specially delegated by the general assembly to serve in that capacity.

All acts or documents of any kind emanating from a union must make mention of the fact that it is a registered union.

The right of unions to own real estate, receive gifts, etc., is limited in the following manner: A union may own only those lands or buildings which are necessary for its meetings, offices, trade schools, libraries, collections, laboratories, experiment grounds, shelter for animals, machines, and instruments, employment bureaus, labor exchanges, apprenticeship shops, lodges, and hospitals. A royal decree can, however, permit a union to own real estate which is intended for ultimate use in one of the foregoing ways, even though it can not be immediately devoted to that purpose.

Gifts or bequests for the benefit of a union will only take effect after their receipt has been authorized in accordance with the communal law. The order which authorizes the acceptance by a union of a gift in which real estate is included must fix, when necessary, the time within which the real estate must be disposed of. The donor may stipulate for his own use, or for the benefit of his heirs or representatives, the right to receive from the union a sum equal to the value of the goods given, in case the union is dissolved. This sum must be determined by the parties interested before the demand for the permission to accept the gift is made. In case the gift consists of real estate that must be disposed of, the sum to be returned if occasion arises will be that realized at its sale.

The dissolution of a union may be ordered by the courts upon the request of the public minister, or any interested party, when it fails to comply with the provisions of the law regarding the lines of action open to it or the composition of its membership, when its property is used for a purpose other than that for which the union was formed, or when the government of the union is not organized in conformity with the provisions of this law.

Before action is taken the union must be notified to comply with the law. This notification will be by way of publication in the appendixes of the official journal (*Moniteur*). Not more than three months after this publication can be allowed the union in which to conform to the law. The matter will be decided summarily, and the order declaring the dissolution must appoint one or more persons to act as receivers, unless provision for such is made by the constitution. A copy of the judgment or order must be deposited by the public minister in the

office of records of the registration commission, in order that it may be published within fifteen days, as is required by law in respect to constitutions.

After an order of dissolution a trade union is considered to exist only for the purpose of winding up its affairs. Every paper emanating from such a union must mention that it is in the process of liquidation. After the payment of all debts the property of the union must be disposed of as follows: The amount of gifts and legacies must be returned to the donors or their heirs or representatives when such action has been stipulated and steps for its return have been taken within the year following the publication of the act of dissolution. The net assets remaining must be devoted to work similar to that of the union, as designated by the constitution or a decision of the general assembly. This designation will be effective only if the disposition of the property is recognized by the registration commission as conforming to the law. When the application of assets has not been regulated, or has been regulated contrary to law, the property will be taken by the Government in order that it may be devoted to the advancement of trade instruction.

Provision is made by this law for the granting of civil personality to federations of unions as well as individual unions. The sections relating to this subject provide that federations of trade unions, composed of persons exercising the same or similar professions or trades, or trades which cooperate in the production of the same articles, may be granted the right of civil personality under the same conditions as individual unions. Federated unions must always have the right to retire from the federation upon giving three months' notice of their intention to do so.

Fines of from 26 to 500 francs ($5.02 to $96.50) will be imposed upon anyone who knowingly makes a false declaration relative to the constitution or the conditions prescribed for admission of members or in regard to statements and reports that must be filed with the Government, or who, after the dissolution of a union has been decreed, participates in the management of such union except for the purpose of winding up its affairs. Article 85 of the Penal Code applies to the enforcement of these penalties.

An annual tax of 4 per cent of the revenue from the real estate belonging to unions must be paid to the State. This tax will be collected in the same manner as the regular real-estate taxes.

THE LABOR CONTRACT.

Article 1780 of the Civil Code provides that "the services of a person shall be engaged only for a certain time or a determined work." With this exception there is no legislation relating specially to labor contracts. Within the past few years a great deal of attention has been

paid to this subject, and a bill has been formulated which regulates in great detail the making and terminating of labor contracts. This bill has passed the Chamber of Deputies and is now before the Senate.

Prior to 1883 the possession of pass or labor books was obligatory upon all workingmen. This obligation, however, was repealed by the law of July 10, 1883.

APPRENTICESHIP.

No laws have been enacted in relation to apprenticeship. There are certain laws relating to industrial or trade schools, but their examination falls without the scope of the present paper.

PREVENTION OF ACCIDENTS AND PROTECTION OF HEALTH OF EMPLOYEES.

It is doubtful if there exist in any other country more elaborate or more rigid regulations concerning the hygienic condition and safety of industrial establishments than are found in Belgium. For this reason the subject will be treated with considerable fullness.

In Belgium, while regulations in relation to such questions as the employment of women and children, hours of labor, Sunday work, and night work can only be imposed by laws duly enacted by the legislature, the central administrative authorities, through the King, have full power to promulgate such measures as are deemed desirable for the regulation of work in establishments classed as dangerous, unhealthy, or nuisances (*établissements dangereux, insalubres ou incommodes*).

As the King has at the same time the power to determine the establishments that shall be classed in that category, and as almost all the important branches of industrial work have been so designated, the King thus, in reality, has the power of determining, by royal decree, what measures shall be taken in industrial establishments generally for the prevention of accidents and the protection of the health of employees. As these decrees have the full force of laws, they will here be considered as such.

The power possessed by the King, as above described, is in virtue of the decree of December 22, 1789, and the law of May 21, 1819. In accordance with the power thus conferred upon him, the King promulgated, January 31, 1824, a decree for the regulation of certain specified classes of industry, though decrees regulating dangerous industries had been issued prior to that date. This decree was replaced by another one issued November 12, 1849. The decree of 1824 related only to the measures that should be taken to protect the lives, health, and convenience of the neighbors of the establishments regulated. It was thus largely a measure relating to the public health and police administration. The decree of 1849 introduced for the first time measures in the interests of the employees within the establishments.

The general principle upon which the scheme of regulation provided for by these decrees was based was that no establishment included in the list of industries regulated could begin operations until it had received an express authorization to do so from the proper authorities, and this authorization was not granted unless all the conditions prescribed regarding the precautions to be taken in reference to hygienic conditions and safety had been complied with.

In virtue of the decree of 1849 and of the general instructions relating to it dated September 27, 1850, and March 5, 1851, the permanent deputations of the provincial councils and the boards of aldermen (*collèges des bourgmestre et échevins*) issued orders of authorization and prescribed in them the conditions that should be observed in each case.

The decree of 1849 was replaced by a royal decree issued January 29, 1863, the purpose of which was, on the one hand, to give to the provincial authorities greater power of authorizing the operation of establishments which formerly could only be authorized by the central government, and, on the other hand, to provide that these authorizations should be subordinate to the reservations and conditions which were judged necessary in the interest of the safety, health, and convenience of the public and of the employees.

The royal decree of January 29, 1863, still remains the fundamental law regulating the conditions that must be observed before the operation of an establishment classed as dangerous, unhealthy, or a nuisance, which, as has been said, means an industrial establishment of almost any kind, can be authorized. Its provisions, however, have been supplemented by a number of other important decrees. Chief among them are the royal decrees of December 27, 1886, and September 21, 1894. The first was promulgated in order to put into effect the recommendations of the labor commission of 1886, and its purpose was to render more effective the measures prescribed by the authorities in reference to the hygienic condition of the interiors of factories and workshops. The purpose of the second, as expressed by the ministerial circular accompanying it, was to complete the decree of 1863 in codifying in a general regulation the scattered provisions, which until then had been contained in the individual decrees of authorization.

Mention should also be made of the following decrees: (1) The royal decree of May 31, 1887, modifying the formalities and method of procedure necessary for the authorization of certain classes of industries; (2) the royal decree of May 31, 1887, making a new classification of industries designated as dangerous, unhealthy, or nuisances, and (3) the royal decree of March 27, 1891, concerning establishments which are created or operated by the State. Finally, there should be noted the law of May 5, 1888, and the royal decree of October 22, 1895, in relation to the organization of a service for the inspection of establishments classed as dangerous, unhealthy, or nuisances.

The scheme of regulation provided by these various decrees is based upon a classification of all industrial establishments which in any way present elements of danger to the lives or health of employees or the general public into groups according to whether the authorization for their operation should be granted by the provincial or the local authorities, and according to the degree of danger presented.

The decree of January 29, 1863, provided for only two classes of establishments, the principle of division being according to the authority whose duty it was to grant the authorization for operation. The first class includes those whose authorization is granted by the permanent deputations of the provincial councils after the boards of aldermen have been given an opportunity to express their opinion. The second class is composed of those whose authorization is granted directly by the boards of aldermen. When projected establishments include several kinds of operations belonging to both classes, the decision belongs exclusively to the permanent deputations of the provincial councils.

This classification has been maintained in subsequent decrees, but has been elaborated to some extent by the creation of subgroups. This was accomplished by the decree of December 27, 1886, which provided that two special groups should be formed of those establishments presenting, respectively, unusual and very slight dangers or inconveniences to the public, in order that they might be subjected to a special and in general a simpler scheme of authorization. This change was carried out by the two decrees of May 31, 1887. The one makes provision for the special system of authorization and the other replaces the old list of establishments which are dangerous, unhealthy, or nuisances, as given in the decree of 1863, by a new one in which the changes necessitated by the formation of the new groups as well as other modifications are indicated. This revised list is the one now in force, the only changes that it has suffered being in respect to particular industries introduced by special decrees.

The most important feature of the whole scheme for the regulation of dangerous and unhealthy industries is that providing that no establishment embraced within that classification can be opened for operation or transferred from one place to another except in virtue of a special authorization from the Government.

In all cases where a person desires to open an establishment comprehended in the list of industries designated as dangerous, unhealthy, or nuisances, a formal request must be addressed to the proper administrative authorities. This request must state the nature of the establishment it is proposed to create, its object, the apparatus and methods of operation that will be employed, and the approximate quantity of products that will be manufactured or stored. It must also indicate the measures proposed to be taken for preventing or lessening any feature in the nature of a nuisance to which the establishment may

give rise, as regards the employees of the establishment, the neighbors, or the public.

Every request for permission to open an establishment of the first class must be accompanied by two copies each of two plans, indicating, the one the arrangement of the establishment, the workshops, warehouses, apparatus, etc., and the other the situation of the establishment in respect to the buildings, cultivated land, means of communication, water courses, etc., comprised within a radius of 200 meters (656 feet) for certain designated establishments and of 100 meters (328 feet) for others. These plans must be prepared, the first on a scale of 5 millimeters (about $\frac{1}{5}$ inch) per meter (3.28 feet) or less; the second on the scale of the registered survey of the locality in which the establishment is situated.

To these requirements contained in the decree of 1863 the royal decree of December 27, 1886, made the following additions: Every request for the authorization of an establishment of the first class must, independently of the information and documents required by the decree of 1863, be accompanied by a notice drawn up in conformity with a model annexed to the decree of 1886, making known the measures proposed to be taken in the interest of the employees for the purpose of preventing or lessening the dangers or inconveniences to which the establishment may give rise.

The model here referred to calls for the following information: The number of employees, their ages and sex; the hours of labor and intervals of rest per day and per week; for each of the four classes of men, women, boys under 16 years of age, and girls under 16 years of age, and for day and night workers separately, the number employed, their hours of commencing and ending work, and the total duration of the intervals of rest allowed them; the manner of heating, lighting, and ventilating the establishment; the care taken to insure cleanliness in the establishment and on the part of the employees; the cubic air space per employee; the provision for pharmaceutical and medical attendance in cases of accidents; the means taken to insure hygienic conditions inside the workrooms, such as the provision of baths, toilet rooms, water-closets, disinfectants, etc.; and the precautions taken to protect employees against the dangers of fire, explosions, formation of injurious gases, dust, or vapors, and injuries from machinery and means of transmitting power.

Each decree of authorization must be supported by a special report made by an official or a competent technical committee concerning the adequacy of these provisions; and the decree must make known in an express and special manner the conditions prescribed in virtue of this report. The officers or technical committees whose assistance can be demanded for the purpose of making this report are (1) the superior council of public hygiene; (2) the inspectors of dangerous and unhealthy

establishments and the inspectors of hygiene attached to the ministry of the interior and public instruction; (3) the officials for the general inspection of local (*vicinaux*) roads and unnavigable streams; (4) the provincial medical commissions, the local public-health committees, and corresponding members; (5) officials of the technical services of the provinces; (6) mine officers, within certain conditions set forth in a decree issued September 4, 1882, and (7) engineers of roads and bridges within certain limits.

The decree also provides that all establishments already authorized must within a year from the date of the decree send to the minister of the interior and public instruction a notice setting forth the same information as above described concerning measures taken in the interest of the employees, and that the competent authorities shall then have the right to impose such additional precautionary measures as may be judged necessary for the protection of the employees.

A new decree of authorization is required if the establishment does not begin operations within the time fixed by the first authorization, if it remains shut down during 2 consecutive years, or if it has been destroyed or temporarily prevented from operating on account of an accident resulting from its operation.

If a means of communication, a water course, or an establishment of any kind belonging to a public administration is situated within a radius of 200 meters (656 feet) in certain designated cases, or 100 meters (328 feet) in other cases, of an establishment for which a request for authorization is made, the administration having charge of such means of communication, water course, or establishment must be immediately informed of the object of the request. A notice indicating the object of the request must be posted by the board of aldermen during 15 days at the headquarters of the proposed establishment and in the communes on whose territory the line drawn by the radius above described would extend. The request for an authorization and the plans must also be deposited at the communal hall, dating from the day the notice is posted.

At the expiration of the 15 days a member of the board of aldermen, or a police commissioner delegated for that purpose, must collect written opinions concerning the advisability of granting the authorization requested, and institute in the commune where the establishment is located an investigation, at which all persons interested in the matter shall, if they desire it, be given an opportunity to be heard. A report of this investigation must be made. The persons requesting authorizations shall always be entitled to receive, upon their request, information concerning the reasons upon which the protests formulated in this investigation are based.

The decree of authorization must in all cases make such conditions as are judged necessary in the interest of the public health, safety, or

convenience, as well as in the interest of the employees of the establishment. It must fix the period within which the operation of the establishment must be begun. Authorizations for establishments of the first class can only be granted for a term of not more than 30 years, but can be renewed at the expiration of that time.

The decisions according or refusing authorizations must be immediately posted by the communal authorities in the communes which are interested, and when necessary be brought to the attention of any public administration that may be interested.

An appeal from the decision of the communal authorities may be made by any interested party to the permanent deputation of the provincial council. Appeals from the action of the provincial authorities will be regulated by special decrees. In all cases the appeal must be made within ten days from the posting of the decision. Notice of appeals must be immediately given by the administrative authorities to all persons interested. The decisions rendered upon an appeal, either by the permanent deputation for establishments of the second class or by the central government for establishments of the first class, must bear the recommendation of the officer or technical committee to whom the matter was submitted for report.

The authority whose duty it is to grant the authorization, either in the first instance or upon last appeal, must give its decision within three months from the time the affair is brought before it. In case it is impossible to arrive at a decision within that time a decree giving the reasons must be issued fixing the new time within which action will be taken. Notice of this decree must be immediately given to all parties interested.

Reference has been made to the creation of a special class of industries, to include those in which danger or inconvenience to the employees or the general public was very slight. For these a simpler and more expeditious system of securing authorizations to begin operations is provided by the royal decree of May 31, 1887. The method of procedure is as follows:

The request for an authorization must be addressed to the local authorities upon stamped paper. It must make known the location and conditions of installation of the proposed establishment. Within eight days following the receipt of this request the communal authorities must notify in writing at his residence each proprietor or tenant individually of a building situated less than 50 meters (164 feet) from the proposed establishment, and any public administration interested in any water course or other work within that district. It must also post up during fifteen days a notice showing the object of the authorization requested.

All protests that the request may give rise to which are deposited at the communal hall must be collected by a member of the board of

aldermen or a police commissioner. A report must be made containing a statement of all the verbal protests, signed by the persons making the protest, and all written protests must be annexed to this statement. If at the expiration of the fifteen days during which the notice must be posted no protest is made, the local authorities must grant the authorization within the ten days following. The decree of authorization must contain a statement of the precautions that are considered necessary by the local authorities for the protection of the public health, safety, and convenience. A copy of the decree must be sent to the governor of the province in which the establishment is situated.

When protests are made, either by neighbors, or by the person making the request on account of the precautions that are prescribed, they will be passed upon by the board of aldermen in the first instance and by the permanent deputations upon appeal.

The foregoing provisions all relate to the division of industrial establishments into certain classes, and the conditions under, and methods by, which establishments in each class may be authorized. From the standpoint of the protection of labor the most important feature of the regulation of industrial establishments is that setting forth the particular measures that must be taken inside the establishments for their protection. In the early decrees it was provided that these conditions should be stated for each establishment in the decree authorizing its operation. For the purpose of making these conditions more uniform and definite, it was finally decided that a general decree should be issued applicable to all establishments, giving the most important conditions that must be observed. This was done by the royal decree of September 21, 1894. The importance of this decree, constituting as it does the general code for the protection of the lives and health of employees in industrial establishments, warrants its translation in full. It should be remembered, however, that special conditions can be imposed by the particular decree of authorization. The following is a translation of the decree:

1. The following provisions, the purpose of which is to insure that work places shall be maintained in a hygienic condition, and that employees shall be protected against accidents, must henceforth be observed in establishments which are unhealthy, dangerous, or nuisances.

2. Work places must be maintained in a satisfactory condition as regards cleanliness. The whitewashing and painting of the walls must be regularly attended to.

3. In places where use is made of organic materials capable of producing liquids which, by their decomposition, will give rise to the formation of injurious or annoying gas or vapors, the floors must be smooth, impermeable, and so constructed that the liquids can flow off, and the walls must be cemented for a height of at least 1 meter (3.28 feet) from the floor. The floor and bottom of the walls must be

washed at least twice a year, use being made of a disinfecting solution, the choice of which will be indicated by the authority by whom the authorization to conduct the business is granted. Decaying residue matter must never be permitted to remain in places where persons are at work. It must be removed as it is formed and immediately disinfected.

4. The atmosphere of work places must be kept continuously protected from emanations from sewers, ditches, manure piles, privies, or any other source of infection. Excreta must not be deposited in wells.

5. There must be at least one privy for each twenty-five persons employed, and these privies must not communicate directly with the workrooms.

6. In inclosed places where work is prosecuted, there must be not less than 10 cubic meters (353 cubic feet) of air space per person employed. These places must be properly ventilated and aired. The air must be renewed at the rate of at least 30 cubic meters (1,059 cubic feet) per hour per person. This minimum must not be less than 60 cubic meters (2,119 cubic feet) in places which are especially unhealthy. The openings through which the fresh air enters or the vitiated air leaves must be so located as not to incommode the workingmen and be beyond their reach.

7. Hoods with draft chimneys opening close to the floor must be provided to remove, as quickly and as directly as possible, gases, powders, vapors, and fumes. When this provision is insufficient to remove them from the workingmen, the apparatus for work must be incased as far as possible and a depression of air created inside in order to bring about active ventilation.

8. The work places must be vacated by the employees as far as possible during interruptions of work. The workingmen must not take their meals in any place used for the manipulation of poisonous substances.

9. Employers are required to furnish their employees with water of a good quality or a hygienic drink (*tisane hygiénique*).

10. When motors are installed in places in which work is not carried on, access to such places must be prohibited to all persons whose presence there is not required for the needs of the service. In all cases the pits for fly wheels and pulleys, as well as the parts of motors which are in motion, must be inclosed by guards or protective devices of such a character as to protect the employees as far as possible from accidents. Gas and petroleum motors must be started by means which do not require the workingmen to take hold of the arms of the fly wheel. (*a*)

11. Precautions, as required by circumstances, must be taken in respect to the means of transmitting power and pieces of machinery moving backward and forward (*pièces saillantes*) or otherwise when they can occasion accidents. (*a*)

12. Machine tools having a rapid motion must be provided with appliances by which they can be stopped in the shortest possible time, without stopping the motor.

13. Machine tools for cutting, which go at a rapid speed, such as machines for splitting, cutting, planing, sawing, beading, or other

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a As modified by the royal decree of April 18, 1898.

similar operations, must be so installed that the employees can not from the places where they work involuntarily touch the cutting edges.

14. No person must be habitually employed where he has access to a fly wheel or any other engine moving with great rapidity.

15. The workingmen must be protected against injury from particles thrown off from material upon which work is being performed.

16. Passages by which employees move about in work places must be of a height and width sufficient to protect the workingmen from being injured by the machinery in motion.

17. Lifts, hoists, elevators, cranes, and similar apparatus must have indicated upon them their power expressed in kilograms, and, if they are made use of by persons, the number of persons that they can transport without danger at the same time.

18. The lifts, hoists, and elevators must be so installed and guided that nothing can fall in them. The openings in the floors through which they pass must be inclosed by a fence, one side of which must wholly or in part consist of a moving gate opening outwardly and shutting automatically.

19. Wells, cisterns, basins, or reservoirs of corrosive or burning liquids must be provided with lids or gates or fencing.

20. Measures must be taken to protect the workingmen in case of fire.

21. The lighting of the work places must be sufficient to enable the workingmen to distinguish the machines or moving parts with which they can come in contact. When petroleum is used for lighting the work places, measures must be taken to prevent the fall or explosion of the lamps. The use of petroleum is prohibited in portable lamps called "*crassets*" and in all other dangerous apparatus. The apparatus for lighting by gas must be carefully maintained and inspected. When the lighting or transmission of power is accomplished by means of electricity, precautionary measures must be taken to protect the workingmen from the dangers presented by high-tension currents. (*a*)

22. Every accident causing the death of a workingman or occasioning an injury capable of causing an incapacity for work for 8 days must be reported to the proper inspector by the employer or his agent within 48 hours. The declaration of the employer must contain the names and addresses of witnesses of the accident. In all cases where death has resulted the proper inspector must make an investigation of the causes of the accident. A ministerial decree will determine the other cases when the same investigation must be made.

23. The provisions of the present decree are only executory in so far as they are not contrary to the provisions of previous decrees of authorization.

24. The permanent deputations must, on the request of the interested parties, and upon the advice of the proper inspectors, authorize for cause exemptions to the present decrees as far as concerns either establishments now in operation or those authorized in the future.

25. Infractions of the provisions of the present regulations, as well as the provisions of the special decrees, will be punished by fines in accordance with the law of May 5, 1888, relative to the inspection of establishments which are dangerous, unhealthy, or nuisances.

The present decree will enter into force January 1, 1895.

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a As modified by the royal decree of February 21, 1898.

Special Industries.—In addition to the foregoing general regulations, a number of special decrees have been issued for the purpose of subjecting to a special régime of regulation certain industries which present unusual dangers to the lives and health of their employees. Such special decrees now in force are those in relation to the manufacture of chemical or white phosphorus matches, the manufacture of white lead and other lead compounds, and the manipulation of rags.

In 1880 the superior council of public hygiene proposed that the use of ordinary phosphorus in the manufacture of matches should be prohibited. It was not, however, until 10 years later that the Government took action, and then it was unwilling to go to the extent of prohibiting the use of ordinary phosphorus as recommended by the council of public health. By a royal decree issued March 25, 1890, it, instead, subjected the industry of matchmaking to such conditions as were thought to be adequate for the protection of employees. Results not fully justifying expectations, important additional conditions were imposed by a royal decree issued February 12, 1895. Following are the essential features of the scheme of regulation provided by these two decrees:

In all factories where matches are made by the use of white phosphorus each of the operations of making the paste and drying the dipped matches must take place in premises specially devoted to those operations. The preparation of the ordinary phosphorus paste must be effected in an apparatus hermetically closed, or if not, surmounted by a hood communicating with a chimney with a strong draft.

It is forbidden to introduce into the paste an amount of ordinary phosphorus exceeding 8 per cent of the total matter exclusive of water. Ascending shafts communicating with a mechanical ventilator must be placed on a level with the tables for dipping matches and vessels containing the paste. Drying rooms to which the employees have access must be mechanically ventilated. The quantity of air necessary for this ventilation will be fixed in each particular case by the permanent deputation upon the advice of the central service for the inspection of labor and the supervision of establishments which are dangerous, unhealthy, or nuisances.

All places in which phosphorus fumes can be generated must be spacious and thoroughly ventilated. This ventilation must preferably be established by air inlets opening on a level with the work tables or the floor and communicating with the flues in connection with the main chimney of the factory. These places must be maintained in a condition of absolute cleanliness. Drinking or eating there is prohibited.

In every phosphorus match factory the employees must be furnished with special garments and a place provided with vessels of water and soap, so that they can change their clothes on beginning and leaving work and wash their hands and faces upon leaving the establishment. The maintenance of cleanliness is absolutely obligatory upon all workingmen having to do with phosphorus, or phosphorus paste, or matches and striking boxes treated with this paste.

No person must be permitted to work in shops where use is made

of phosphorus, or phosphorus paste, or matches and striking boxes treated with this paste, unless he is furnished with a medical certificate stating that he is not suffering from phosphorus necrosis and that he does not appear to be predisposed to that disease. Employees in these shops must be medically examined each month at the expense of the employer. They must be immediately excluded from the shops as soon as it is known that they do not satisfy all of the conditions requisite for their admission. The medical observations must be entered upon a register kept for this purpose.

Any additional measures in respect to the various factory operations that may be necessary in order to combat the chronic toxic effect of phosphorus, as well as measures for preventing fires and explosions, or other accidents to which the operation of the factories may give rise, will be prescribed by special decrees.

In addition to the foregoing restrictions upon manufacturers of phosphorus matches it was necessary to impose equivalent conditions upon proprietors of depots and warehouses for the storing of matches, in order that foreign manufacturers would not possess an unfair advantage over domestic manufacturers. The royal decree therefore provides that "all proprietors of depots and warehouses containing phosphorus matches subject to the régime of dangerous and unhealthy establishments shall be prohibited from having in those places white phosphorus matches made with paste containing more than 8 per cent of phosphorus."

Infractions of these regulations are punished according to the law of May 5, 1888, in respect to the inspection of dangerous and unhealthy industries.

Exemptions from these provisions can be granted by the permanent deputations upon the advice of the central service for the inspection of factories and the supervision of dangerous and unhealthy establishments.

On April 18 and July 8, 1898, royal decrees were issued determining the methods that must be employed by the inspectors in ascertaining the proportion of phosphorus in the paste employed in match factories or on matches stored in warehouses. The provisions, being entirely technical, need not be reproduced.

Establishments for the manufacture of lead compounds had been included among dangerous industries as early as 1810 (*a*) and as such had been subjected to the general regulations regarding that class of establishments. In the investigation made by the labor commission of 1886 considerable testimony was given regarding maladies to which workers in lead factories were exposed. A special investigation of the subject was consequently ordered by the King, the result of which led to the preparation and promulgation of the royal decree of December 31, 1894, by which the manufacture of lead compounds was subjected to a special régime of regulation.

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a Decree of October 15, 1810.

The provisions of this order can be classed in two categories, viz, those which have for their object the prevention of the formation, or at least diffusion, of lead powder in the workrooms, and those of a general character regarding the cleanliness of the establishment, and the conveniences that must be placed at the disposal of the employees.

The provisions comprising the first class are exceedingly technical in character and regulate in detail the precautions that must be taken during each stage of the process. A separate set of rules is formulated for the manufacture of white lead, lead oxides (massicot, litharge, and minium), and lead chromate and colors containing lead chromate.

The rules (*a*) regulating the manufacture of white lead are as follows:

The lead must be cast in a special room devoted to that purpose. In recasting the residue of the "wickets" or flakes (*grilles ou lamelles*) which has escaped carbonization, the lead must be cast under a hood communicating with a strong draft and so arranged that the volatile products generated by the fusion will be completely absorbed.

The wickets or flakes incrusted with white lead must be sufficiently wet, by means of a flow of water or vapor, so that they can be manipulated without producing powder before they are collected in the "bed" or carbonizing room. If the emptying of the "white bed" produces dust, each layer of the stack must be previously moistened. Work in the carbonizing rooms (white beds) must not be proceeded with until the rooms have been carefully ventilated. The white lead must then be collected outside, through openings made in the partitions of the room. The lead which has not been carbonized and the white lead must be separated mechanically outside of the carbonizing room. The workingmen charged with the collection of the white lead must be provided with masks, respirators, or handkerchiefs, holding moistened sponges upon their noses and mouths.

When the picking and scouring by hand is done with the help of a mallet, the wickets and flakes must be again wet prior to their use. Violent blows must be avoided, and the workingmen must be furnished with masks, respirators, or handkerchiefs, as above described. If powder is produced, the scales detached from the lead must be wet before they are removed or piled up.

If use is made of mechanical scrapers or crushers not immersed in water, these apparatus must be inclosed in tight cases connecting with ventilating shafts, so arranged that the lead powder can not escape outside, and they must not be opened to withdraw the scales until the powder has been completely deposited, which must be assured when necessary by means of a jet of steam or spray of water.

If the scouring or riddling is accomplished under water, care must be taken that the hands of the workingmen are not brought into contact with the soft lead (*céruse en bouillie*) and that the liquid material is not splashed about.

The wickets and flakes insufficiently carbonized must be prepared for further operations under chimneys with a strong draft as described above. This work can also be performed by passing them between

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a For the technical terms employed in these rules see the translation given in the Report of the Chief Inspector of Factories and Workshops of Great Britain for the year 1896, pp. 113 and 114.

cylinders inclosed in cases, with openings of a width only sufficient to permit the turning out of the wickets and flakes when dealt with.

In mixing or washing the scales in water and in filling the pots for drying, due precautions must be taken that the hands of the workingmen are not brought in contact with the material and that their hands or faces are not splashed with liquid that may be thrown off.

The ovens must not be entered in order to withdraw the dry white lead before they have been properly cooled and aired.

The cakes of white lead must be mechanically crushed.

The apparatus for crushing, grinding, and sifting must be of such a character that the white lead will pass automatically from one to the other. They must be installed in a special room, inclosed in such a manner that no part of the white lead can escape, and must not be opened until the powdered matter has been completely deposited.

Proper precautions must be taken to prevent any escape of powder during the passage or conveyance of the white lead from the sifter to the casks for transportation. The white lead must never be handled until after a sufficient time has elapsed to insure the complete deposit of the powder. It should be transferred from one receptacle to another slowly and with caution.

The white lead should be placed in casks in such a way that no powder can escape in the workrooms or in the neighborhood.

The white lead must be taken from one workroom to another in closed vessels.

In the operations of working and crushing the white lead with oil as well as in placing it in casks, precautions must be taken that the hands of the workingmen do not come in contact with the material and that the hands and face are not splashed.

Following are the rules for the manufacture of the lead oxides—massicot, litharge, and minium:

The furnaces must be established in the open air or in large rooms well ventilated.

Proper precautions must be taken to protect the workingmen from powders or vapors during the operations of stirring or removing materials from the ovens. If the furnaces are not in the open air, hoods with a strong draft must be provided above the work doors, as above described.

In mixing with water, crushing, or extracting the massicot from the pits, the hands of the workingmen must not be brought in contact with the lead oxide, and precautions must be taken against the splashing of the materials.

The pulverizing and sifting must be accomplished in apparatus hermetically closed, and the latter must not be opened until a sufficient time has elapsed to permit the powder completely to settle.

In transferring the material from one vessel to another, in placing it in casks, or in collecting it, precautions must be taken to prevent the powder from escaping.

For the manufacture of lead chromate and colors containing lead chromate, the following rules are set forth:

Precautions must be taken when material in a liquid state is manipulated that the hands of the workingmen do not come in contact with it, nor receive splashes.

The operations of pulverizing, sifting, collecting, and placing in casks must be performed in apparatus that are hermetically closed, and which must not be opened until the powder is completely deposited, or be performed under hoods with strong drafts, as above described.

The second class of provisions are more general in character, but are none the less important. They provide regarding all three classes of lead compounds, as follows:

All the operations of manufacture must be performed in large places, well ventilated, and maintained in a proper state of humidity and cleanliness. The walls and woodwork of the shops must, in particular, be washed every week, and the floors must be washed every day with water, or, preferably, with moistened sand.

The handles of all tools must be kept in a condition of absolute cleanliness.

Measures must be taken that all the lead powders in the air passing up the ventilation chimneys shall be completely deposited before the air escapes outside.

The preference in employment must be given to workingmen who are the least disposed to lead poisoning or those habituated to the dangers resulting from the inhalation or contact with lead compounds.

A separate room must be placed at the disposal of the employees in which they can leave their ordinary clothes and eat their meals when they are taken inside the establishment. This room must be removed as far as possible from the workroom, and be situated in the southwest part of the factory. It must be maintained in a condition of absolute cleanliness, be provided with receptacles for clothing, tables, benches, and a stove for heating food. No workingman must be permitted to enter this room until he has washed himself and has laid off his working clothes. No workingman shall be permitted to leave the building to take his meals in his working clothes or before he has carefully washed those parts of his body which are exposed to the lead powder. Workingmen must not change their clothes, eat, or drink elsewhere than in the special room provided for this purpose or in the open air.

There must also be placed at the disposition of the workingmen, adjacent to the room above mentioned, bathrooms, fountains, or pipes for the distribution of water, provided with a sufficient number of faucets, soap, nailbrushes, clayey sand, towels, and receptacles for holding the work clothes.

The workingman must each time he enters a workroom put on a work garment for protection against lead powder, such as a long blouse fitting closely to the neck and body. These garments must be washed at least once a week.

Those employees engaged upon work presenting danger must be required to wash their hands and faces with clayey sand or soap, then with an abundance of water rinse their mouths, remove the powder from their hair, and take off their work garment each time they leave the shop to take their meals or to return home.

The workingmen must be furnished by the establishment with masks, respirators, or handkerchiefs as well as sponges, and they must be required to use them. These articles must be washed each time they are used.

Each workingman attacked by plumbism must be examined by a

physician attached to the establishment and paid by the employer, and must not be again permitted to be employed upon dangerous work until the physician has certified that he is cured and can again be employed at that work. These certificates must be entered in a register kept for that purpose, which must be exhibited to the authorities whenever they so request.

Those employees who are designated by the physicians as attacked at frequent intervals by plumbism must be definitely discharged.

No person given to drunkenness shall be employed, and no alcoholic liquors shall be permitted in the establishment.

Independently of the foregoing provisions which have as their object the prevention of lead poisoning, manufacturers of white lead and other lead compounds must take the following precautions in order to insure that their establishments shall not constitute a nuisance. No stacks or carbonizing rooms must be established near dwelling houses belonging to other persons. Care must be taken that neighboring wells do not become contaminated with liquids charged with organic matters from the stacks. Water containing lead in solution or suspension must not be allowed to permeate the soil or flow elsewhere outside the establishment than in the sewers. All combustible matter must be kept at a distance from the drying rooms. Proper measures must be taken to protect the employees from danger on account of machinery or means of transmitting power.

The third industry subjected to special regulations is that having to do with the handling of rags. The purpose of these regulations is to prevent the spread of smallpox due to infected rags. All persons in any way occupied in manipulating rags are therefore required by the royal decree issued February 4, 1895, to be vaccinated at least once in every 3 years.

The enforcement of the regulations concerning establishments which are dangerous, unhealthy, or nuisances, belongs in general to the local authorities, though, as will be seen, the central government has considerable power, and exercises the important function of inspection of the establishments. The fundamental decree of 1863 contained the following provisions concerning the enforcement of its regulations:

The authorities can at all times enforce the observance of the conditions which regulate the establishments subject to the provisions of that decree. The authorization granted to an establishment can be withdrawn if the conditions imposed have not been observed, or if the owner refuses to submit to new conditions which the competent authorities can always impose when experience demonstrates their necessity.

The local authorities are charged with the permanent supervision of establishments requiring authorization. A general oversight of the same establishments will be exercised by officers delegated for that purpose by the minister of the interior. The employers subject to this supervision must produce the official plans of their establishment, and the administrative documents regulating their operation whenever requested to do so by the proper authorities.

Infractions of the decree will be punished by fines, or, if necessary, the establishment at fault can be closed by the local authorities. However if the contravention of the decree relates to an establishment authorized by the provincial authorities, or the central government, these bodies must be consulted before action is taken.

In addition to this local supervision the central government in virtue of its general powers delegated special officers for the supervision of dangerous and unhealthy establishments. In order that the powers and duties of these officers might be definitely established, the Belgian Parliament passed the law of May 5, 1888, regarding the inspection of such establishments. This law, which is still in force, provides as follows:

1. The delegates of the Government charged with the inspection of dangerous and unhealthy establishments, as well as the officials charged with the inspection of steam engines and boilers, must be allowed freely to enter mills, factories, depots, and other places subject to their supervision.

These officers must make a formal report of all infractions of the law, which shall be considered as establishing the facts alleged until proof to the contrary is adduced. These reports must, as far as possible, be prepared immediately (*seánce tenante*). One copy must be sent to the person accused of breaking the law within 24 hours after the infraction has been noted. A second copy must be sent to the state's attorney (*procureur du Roi*).

2. Infractions of any of the provisions of decrees relative to establishments which are dangerous, unhealthy, or nuisances, or to steam engines and boilers will be punished by fines of from 26 to 100 francs ($5.02 to $19.30).

3. Directors of industrial enterprises, proprietors, employers, directors, or managers who place any obstacle in the way of delegates of the Government in the exercise of their powers of supervision will be punished by fines of from 26 to 100 francs ($5.02 to $19.30) without affecting in any way the application of the penalties imposed by articles 269 to 274 of the Penal Code.

4. In case of a repetition of the offense within 12 months from a prior condemnation the minimum fine above provided will be increased to 100 francs ($19.30) and the maximum to 1,000 francs ($193).

5. The heads of industrial enterprises are civilly responsible for fines imposed upon their directors or managers.

6. Book I of the Penal Code, without excepting chapter 7 and article 85, is applicable to the infractions of the law mentioned above.

In the following year a royal decree was issued, July 10, 1889, reorganizing and strengthening the system for the inspection of dangerous and unhealthy establishments and creating a committee having as its function to advise the Government concerning the application of laws and regulations regarding such establishments. In the same year the law of December 13, 1889, regulating the employment of women and children, was passed, and in accordance with its provisions a special corps of factory inspectors for its enforcement was organized by the royal decree of November 6, 1891.

Experience demonstrated the desirability of combining these two services, and this was done by the royal decree of September 21, 1894.

The creation of the present ministry of industry and labor, May 25, 1895, and the transference to it of all matters relating to industry and labor necessitated a certain amount of reorganization in the system of inspection of labor. Two royal decrees for this purpose were accordingly promulgated October 22, 1895.

The first of these two decrees has as its object the determination of the respective spheres of activity of the department of agriculture and public works and the newly created department of industry and labor and repeals the decree of September 21, 1894. To the department of agriculture and public works is given the supervision of all matters relating to the external hygienic conditions of industrial establishments, as well as the relations between the internal régime of work and the public health. It is also intrusted with the absolute supervision of certain classes of industries, such as slaughterhouses and places making use of vegetable and animal matter which were peculiarly liable to affect the public health or comfort. All other establishments were placed under the supervision of the department of industry and labor. The principle of this division of powers is evident. The department of agriculture and public works looks after the protection of the public health and comfort, while the department of industry and labor cares for the protection of the lives and health of the employees.

The second decree of October 22, 1895, regulates in greater detail the actual organization of the inspection service. The system of a single inspection service for the enforcement of both the decrees concerning dangerous and unhealthy establishments and the law regulating the employment of women and children, introduced by decree of September 21, 1894, is continued. To these duties the special law of April 11, 1896, added that of enforcing the law of August 16, 1887, in relation to the payment of wages. The system of inspection provided by the law of October 22, 1895, is as follows:

1. The mining engineers are charged with the supervision of the execution of the law of December 13, 1889, concerning the labor of women, young persons, and children in coal and metal mines, quarries, and the manufacture of iron and steel and other metals, including all dependent works connected with them This list of industries, which is given in the decree in greater particularity than is here reproduced, can be modified or added to by the minister of industry and labor. An engineer of mines attached to the central administration must be delegated to centralize this service.

2. For all industries not included in the above enumeration the same supervision will be exercised by an inspection service attached to the bureau of labor. This service will include inspectors of labor at the central administration and inspectors and delegates residing in the provinces, the districts and resources of which will be fixed by decree of the minister of industry and labor.

3. The officials and agents above designated will have as their duties: (1) To visit industrial establishments subject to the law of December 13, 1889; (2) to inform themselves concerning all infractions of the law or regulations issued in relation to it; (3) to grant, when proper, the authorizations prescribed in article 7, section 4, of that law in relation to the employment of young persons and children on a seventh day in the week, and (4) to submit reports and recommendations concerning the application of the law.

4. The mining engineers and inspectors of labor above mentioned, as well as the delegates of the Government for the inspection of other establishments classed as dangerous, unhealthy, or nuisances, shall also have as their duty: (1) To supervise the execution of the laws, decrees, and regulations concerning such dangerous and unhealthy establishments by inspecting them and ascertaining any infractions that may have been committed; and this supervision must have in view not only the conditions regarding the public health and safety in the neighborhood of establishments, but also the health and safety of the employees; (2) to verify the efficacy of the provisions formulated in decrees of authorization, and to propose new provisions when those that have been prescribed are not sufficient; (3) to give their opinion concerning the authorization of dangerous and unhealthy establishments whenever requested to do so.

5. The inspectors of labor attached to the central administration shall have as their special duty the supervising of those particular industries and establishments that are indicated to them by the minister of industry and labor. They will also exercise a control over the work of the inspectors and delegates in the provinces. The same officials and the general inspectors of mines must give their opinion, when requested by the King, in regard to establishments which are dangerous, unhealthy, or nuisances, and concerning questions of classification or grouping of industries which are submitted to them by the minister.

6. Establishments which are placed under the supervision of the department of agriculture and public works are not subject to the provisions given in the two preceding paragraphs.

7. The minister of industry and labor can always charge the inspectors of labor with all or a part of the new duties of the mining engineers, or vice versa, where the topographical situation of the establishments is such that the efficiency of the service will be thereby promoted.

8. The inspectors of factories and mining engineers charged with inspection duties shall be required, independently of their professional duties, to give advice and furnish statistical and other information which may be requested of them by the authorities and which they have collected in order to determine the effect of the labor legislation and to study the reforms that can be introduced in it.

9. A committee, the composition and organization of which will be determined by the minister of industry and labor, will be created to supervise the regular and uniform execution of the law of December 13, 1889.

10. The remuneration of inspectors of labor will be fixed by the decree providing for their appointment. Delegates for the inspection of labor will not have a fixed salary, but instead will receive a per diem while upon inspection work. Traveling and subsistence expenses

of the inspectors of labor, as well as the per diem and traveling expenses of the delegates, will be allowed according to a tariff fixed by a special decree.

11. Inspectors residing in the provinces must make inspections on from 150 to 200 days per year, and the delegates permanently employed on from 50 to 100 days per year. The number of days of inspection work required of inspectors attached to the central administration will be determined by the minister of industry and labor.

In the foregoing regulations Belgium has built up, by royal decrees, an exceptionally effective system for the protection of the lives and health of employees in industrial establishments. The power on the part of the King to make such decrees existed, as will be remembered, only in respect to establishments that were classed as dangerous, unhealthy, or nuisances. Though this category was made very comprehensive, there still remained establishments which could not be included, and others concerning the propriety of the inclusion of which some doubt might exist.

All such uncertainty has now been removed by the act passed July 2, 1899. This very important law confers full power upon the Government to prescribe measures for the protection of employees, not only in dangerous and unhealthy establishments, but in all kinds of industries, including even commercial enterprises. Following are the provisions of this act:

1. The Government is authorized to prescribe the measures necessary to insure the healthfulness of workshops or of labor and the security of workingmen in commercial and industrial enterprises the conduct of which presents danger, even when they are not classed as dangerous, unhealthy, or nuisances. These measures can be imposed upon workingmen, if necessary, as well as upon employers and heads of enterprises.

The Government is equally authorized to prescribe the declaration that must be made in the case of accidents occurring in these enterprises.

Excepted from these provisions are those enterprises where the employer works only with the members of his family living with him or with the domestics or persons of the household.

2. Except as regards those enterprises which, independently of the present law, are subject to a régime of authorization or prior declaration, the Government can not exercise the powers set forth in the preceding article, except by way of general decrees (*arrêtés*) and after having taken the advice of (1) the councils of industry and labor or the sections of these councils representing the industries, professions, or trades concerned; (2) the permanent deputations of the provincial councils; (3) the Royal Academy of Medicine, the superior council of public hygiene, or the superior council of labor.

These bodies must transmit their opinion within two months after their advice has been asked, and in the case of their failure to do so action can be taken without it.

3. The officers of the Government charged with the execution of the present law shall have the right of free access to all places connected with the enterprises.

The stating and preventing of infractions of this law shall be made in conformity with the law of May 5, 1888, relative to establishments classed as dangerous, unhealthy, or nuisances, without prejudice, however, to chapter 10 of the law of April 21, 1810, in that which relates to mines, subterranean quarries, and metallurgical establishments regulated by that law.

EMPLOYMENT OF WOMEN, YOUNG PERSONS, AND CHILDREN.

While Belgium was early developing a code of regulations for the protection of the health and lives of industrial workers, little or no advance was being made in the direction of limiting the hours of labor or employment of women and children. The power of the King to promulgate decrees in relation to the conditions of work in dangerous and unhealthy establishments did not include the right to regulate hours of labor or determine what classes should be employed. In the failure of the Parliament to act, Belgium, therefore, until very recent times, possessed no regulations concerning the employment of women and children or hours of labor in any form.

Investigations concerning the employment of women and children were made in the years 1846 to 1848, in 1871, and again in 1874, and bills were introduced for restricting the employment of these classes. These measures all failed of enactment on account of the determined opposition of the employing class. The reports of the royal commission on labor in 1887 and 1888, however, made it inevitable that legislation of some character in relation to this subject would be enacted. A bill looking toward this end was almost immediately introduced, and was finally enacted December 13, 1889. The importance of this measure requires the reproduction of its provisions, and those of the decrees that have followed for its elaboration, with considerable fullness.

The law relates exclusively to the employment of women, young persons, and children. Its provisions apply to work performed in (1) mines, quarries, and yards; (2) factories and workshops; (3) establishments classed as dangerous, unhealthy, or nuisances, and those in which use is made of steam boilers or mechanical motive power; (4) ports, wharves, and stations; and (5) transportation by land or water. Public as well as private establishments, including those for technical instruction or of a charitable nature, are comprehended.

The law, it will be seen from this statement, is very comprehensive. It relates to almost all kinds of industrial work except fishing and agriculture, where no use is made of mechanical power. The only important exception is that in relation to domestic household work. It does not apply to work carried on in establishments where only the members of one family are employed under the direction of the father or mother or of a guardian, provided that the places where this work is performed are not classed as dangerous, unhealthy, or nuisances,

and that the work is not performed by means of steam boilers or a mechanical motive power.

For the purposes of the law industrial workers in the industries enumerated are divided into the following classes: Adult males, or men 16 years of age or over; adult females, or women 21 years of age or over; boys, or males 12 years but under 16 years of age; girls, or females 12 years but under 21 years of age; and children, or persons of both sexes under 12 years of age.

The labor of adult males, or men 16 years of age or over, is subjected to no regulation in any form.

The only restriction upon the employment of adult females is a provision that women shall not be permitted to work during the four weeks following their confinement.

The employment of children, or persons of both sexes under 12 years of age, is absolutely prohibited.

The remaining provisions of the law, therefore, relate almost exclusively to boys, or males 12 years but under 16 years of age, and girls, or females 12 years but under 21 years of age, and in general are the same for these two classes. In the subsequent summary of the law, where the expression boys and girls is used, it will be understood that reference is had to persons as above defined.

The law itself imposes only general restrictions upon the employment of these classes, but grants large powers to the King to promulgate decrees restricting their employment in particular industries. In order to gain a knowledge of the extent to which the employment and hours of labor of boys and girls are regulated in consequence of this law, it will be necessary to give the main provisions of the decrees that have been issued in virtue of its provisions. It will be conducive to clearness to consider, first, those provisions restricting the employment of boys and girls; and, secondly, those limiting their hours of labor and intervals of rest when employed.

The only positive prohibition of the employment of boys or girls by the law itself is that girls under 21 years of age can not be employed in underground work in mines or quarries after January 1, 1892. This provision does not apply to persons already so employed prior to the date above indicated.

Article 3 of the act provides that the King may by decree prohibit the employment of boys and girls, as above defined, in any work which is too severe for their strength or which presents features exposing them to danger; or he may restrict their employment to a certain number of hours or under certain specified conditions in work recognized as unhealthy. Before promulgating such a decree the King must take the advice of (1) the councils of industry and labor or those sections relating to the industries to which the decree will apply; (2) the permanent deputation of the provincial council, and (3) the superior

council of public hygiene or a technical committee. These bodies must give their opinion concerning any matters submitted to them within two months after the request is made. When this is not done action can be taken without regard to them.

In pursuance of this article, the King issued a royal decree dated February 19, 1895, fixing the age at which boys and girls can be employed in a large number of industries. In twenty kinds of establishments, mostly chemical, the employment of boys under 16 and girls under 21 years of age is absolutely prohibited. In forty-five others, having to do chiefly with chemical and animal or vegetable products, the employment of boys and girls under 16 years of age is prohibited. Two lists of industries are given in which are indicated certain departments or branches of work in which the employment of boys and girls under 16 years of age and boys and girls under 14 years of age, respectively, is prohibited. Finally, special sections regulate the conditions under which boys and girls may be employed in match and rubber works. These conditions are as follows:

In chemical match factories, in addition to the restrictions imposed by the decree of December 26, 1892, the following limitations are imposed upon the employment of boys and girls. These two classes must not be employed in shops where paste containing white phosphorus is manufactured, nor in shops for the drying of matches dipped in such paste, nor must they be employed in the operation of dipping matches in such paste. Children under 14 years of age can not be employed in filling boxes with matches containing white phosphorus.

In shops where india rubber is treated with sulphuret of carbon, boys and girls under 16 years of age can not be employed. Girls 16 but under 21 years of age can only be permitted to work 5 hours each day, 2½ of which must be in the forenoon and 2½ in the afternoon.

This decree has been modified by one issued August 5, 1895, regarding the employment of boys and girls in rag factories, and supplemented by a decree issued April 5, 1898, concerning the manipulation of rabbit and hare skins.

The first of these provides that no child under 14 years of age shall be employed in certain parts of rag factories; that the places in which children from 12 to 14 years of age are employed must be separated from the other parts of the establishment, and be well lighted and ventilated, and that a separate room must be provided in which these children can change their clothes before beginning and after ending their work.

The second provides that boys under 16 and girls under 21 years of age shall not be employed in the work of treating the skins of rabbits and hares with acid nitrate of mercury in places where such skins are undergoing the operation of being treated with oil of carrots (*secrétage*); also that boys and girls under 16 years of age can not be employed in

places where the skins are being prepared for such treatment, or in subsequent work, such as brushing, carrying, or cutting.

Turning now to the subject of the regulation of the hours of labor and periods of rest of boys and girls, the law of 1889 contains the following positive provisions: Boys under 16 years and girls under 21 years of age must not be employed more than 12 hours per day, divided by intervals of rest, the total duration of which must not be less than 1½ hours. These classes must not be allowed to work after 9 p. m. nor before 5 a. m., except when specially authorized by the King, in work which from its nature can not be interrupted or delayed, or can only be performed at stated hours. They must not be employed for more than 6 days in each week, except when specially authorized by the King or other authorities and under such conditions as they impose. The conditions under which the special authorizations for overtime work above referred to may be made are stated by the law as follows:

The King may authorize, either unconditionally or under certain conditions, the employment of boys and girls over 14 years of age after 9 p. m. or before 5 a. m., in work which, from its nature, can not be interrupted or delayed, or can only be performed at certain hours. In mining he can further authorize the employment at night of certain classes of employees over 14 years of age, or the employment after 4 a. m. of boys who have completed their twelfth year. The same authorization may be granted for a definite period by the provincial governors, upon the report of a competent inspector, for any industry or trade where a stoppage of work has been caused by an accident or exceptional circumstance. The order of the governor, however, will cease to be effective if it is not approved within 10 days by the minister to whom the supervision of the industry is intrusted. These authorizations by the provincial governors may be granted for a period not exceeding two months, but can be renewed with the consent of a competent inspector.

In respect to the employment of boys and girls over 14 years of age more than 6 days in a week, the King may authorize such classes to work 7 days in each week, either regularly, or for a definite period, or under such conditions as he may deem advisable, in those industries in which the nature of the work is such that it does not permit of interruption or delay. Where such authorizations are granted the employees must always be allowed the time necessary to attend to their religious duties once each week, and be given a full day's rest in each fortnight.

In cases of necessity, inspectors of labor, mayors, and governors may authorize the employment of boys and girls on a seventh day in all industries. Notice of this authorization must be immediately given to the ministers intrusted with the supervision of these industries. The ministers can grant this authorization for several consecutive

weeks, not in excess of 6, upon the recommendations of an inspector, as far as girls 16 but under 21 years of age are concerned.

In addition to their direct limitations upon the hours of labor of boys and girls contained in the law itself, provision is made whereby the King is not only empowered, but is positively directed within a period of 3 years from the publication of the law to issue decrees regulating "the daily hours of labor as well as the duration and conditons of rest, so far as concerns boys under 16 years of age and girls under 21 years of age, according to the nature of the occupations in which they may be employed and the requirements of the industry, profession, or trade."

In execution of this mandate the King has issued a large number of very important decrees, each having as its purpose the regulation of the hours of labor and periods of rest of boys and girls in a special industry. The first and most important series of decrees was issued December 26, 1892. The following is a summary of their provisions:

In spinning and weaving flax, cotton, hemp, and jute the hours of labor of boys under 16 years of age and of girls under 21 must not exceed 11½ per day. There must be 3 intervals of rest per day, aggregating at least 1½ hours, the one in the middle of the day consuming 1 hour, and during these intervals the employees may leave the building. The period of actual employment of children under 13 must not exceed 6 hours a day, with a rest interval of 15 minutes.

In the woolen industry the hours of employment of boys under 16 and girls under 21 must not exceed 11¼ per day, with a total rest period of 1½ hours, divided into 3 intervals, the one at the middle of the day being 1 hour long.

In the newspaper printing industry boys under 16 and girls under 21 must not be required to work more than 10 hours a day, broken by several intervals of rest aggregating 1½ hours.

The art industries are required to limit the hours of labor to 10 per day for boys under 16 and girls under 21. In type founding, however, the limit is 8 hours for persons under 16 years of age. There are 3 intervals of rest aggregating 1½ hours.

In the paper-making industry the age classification is different from that shown in the preceding industries. Boys between 14 and 16 and girls between 14 and 21 must not be required to work more than 10 hours a day with 3 rest intervals, making a total of 1½ hours, while children of both sexes between 12 and 14 must not be required to work more than 6 hours a day, broken by one or more intervals of rest aggregating half an hour. Boys from 14 to 16 can be employed after 9 p. m. and before 5 a. m., not more than 10 hours a day, with rest intervals aggregating 1½ hours.

In the tobacco and cigar industry the hours of labor for boys between 14 and 16 and girls between 14 and 21 years of age must not exceed 10 per day, with 3 intervals of rest amounting altogether to 1½ hours. Children of both sexes between 12 and 14 years of age must not be required to work more than 6 hours a day, with one or more intervals of rest amounting in all to half an hour.

In the manufacture of sugar the time of labor of boys under 16 and girls under 21 must not exceed 10½ hours a day, with 3 intervals of

rest of a total length of not less than 1½ hours. Boys from 14 to 16 and girls from 14 to 21 may be employed at night work between 9 p. m. and 5 a. m., but the hours of labor must not exceed 10½ nor the rest intervals be less than 1½ hours a day.

In furniture making and the industries incident to house furnishing persons of both sexes under 16 years of age must not be required to work more than 9 hours a day during October, November, December, January, February, and March, nor more than 10 hours a day during the other months of the year. There must be 3 rest intervals having a total duration of 1½ hours, of which the one at midday consumes 1 hour.

In the manufacture of pottery and earthenware boys under 16 and girls under 21 years of age may be required to work not more than 10 hours a day, with 3 intervals of rest aggregating 1½ hours, the one at midday consuming 1 hour.

In the manufacture of fireproof articles the same provisions shown for pottery and earthenware apply.

The plate-glass industry may require not more than 10 hours' work per day from boys under 16 and girls under 21, and there must be 3 intervals of rest aggregating 1½ hours, the one at midday being 1 hour long. For the process of "tapping" the glass, boys from 14 to 16 years old may engage in night work after 9 p. m. and before 5 a. m., but their total hours of labor per day must not exceed 10, nor their rest intervals be less than 1½ hours; for this process they may also be employed a seventh day every other week not to exceed 6 hours, with a half hour's interval for rest and sufficient time to attend to their religious duties.

In chemical match factories the hours of labor of boys under 16 and girls under 21 must not exceed 10½ a day, broken by 3 rest intervals making a total of 1½ hours, of which 1 hour must be used at midday. During these intervals the employees must leave the workrooms.

In building industries the daily hours of labor of employees under 16 years of age must not exceed 8 during November, December, January, and February. During the remaining months of the year 10 hours of labor per day may be required. Intervals of rest of not less than 1 hour a day in all must be given during the 4 months named, and of 1½ hours during the rest of the year.

The zinc-rolling industry may require from its male employees from 14 to 16 and its female employees from 14 to 21 years of age not more than 10 hours of labor per day, which must be broken by intervals of rest whose total length is 1½ hours, the principal interval being 1 hour long between 11 a. m. and 2 p. m. Boys and girls from 12 to 14 years old must not work longer than 5 hours a day, with a rest interval of half an hour. Persons of both sexes from 14 to 16 may be employed at night work between 9 p. m. and 5 a. m., but their combined night and day work must not exceed 10 hours a day, nor the period of rest be less than 1½ hours, the principal interval of rest being at least half an hour long between 11 p. m. and 2 a. m.

In crystal glass and glass-vessel making boys under 16 and girls under 21 must not be required to work more than 10 hours and 20 minutes a day. There must be 3 rest intervals, a morning and an afternoon interval, each 20 minutes long, and a midday rest of 30 minutes. Boys between 14 and 16 and girls between 14 and 21 may be employed on night work after 9 p. m. and before 5 a. m., but the combined hours

of work must not exceed those provided for day employees of the same classes. Every other week, persons between 14 and 16 years of age may be employed a seventh day in making glass tiles and other similar processes which necessitate the use of glass properly settled. The hours of labor must not exceed 6 on such a day, must be broken by a rest of half an hour, and the proper time must be allowed to attend to religious duties.

The industries engaged in the manufacture of wearing apparel are divided into two groups by the decree relating to them. The first group includes the manufacture of woolen, cotton, and flax hosiery and trimmings; lace and embroidery making; the manufacture of tulles and blondes, and the manufacture of woolen, flax, hemp, and silk braids. The daily hours of labor in this group must not exceed 11 for boys under 16 and girls under 21 years of age, and the 3 intervals of rest must equal 1½ hours, of which at least 1 hour must be taken at midday. The second group includes the manufacture of leather and leather goods, hats, fancy linen articles, buttons, gloves, umbrellas, etc. In this group the hours of labor of boys under 16 and girls under 21 must not exceed 10 per day, with intervals of rest amounting to 1 hour, during which the employees may leave the workrooms.

In heavy engineering work boys between 14 and 16 and girls between 14 and 21 years of age must not be required to work more than 11 hours a day, while the hours of labor of persons of both sexes under 14 years of age must not exceed 10 per day. Rest intervals of not less than an hour altogether must be given, during which the employees may leave the workshops.

Light engineering work is divided into four lists, according to character of work done. In the first list, comprising the manufacture of screws, bolts, small tools of various kinds, agricultural and gardening implements, wire, steel pens, cutlery, etc., the daily hours of labor of boys from 14 to 16 and girls from 14 to 18 years of age must not exceed 11, while children of both sexes from 12 to 14 years old may be required to work not more than 10 hours a day. In the other lists, which include the manufacture of scientific instruments, iron and copper castings used in smaller mechanical work, and swords and small arms, the hours of labor of boys under 16 and girls under 21 must not exceed 10 per day. The rest intervals for all employees in light engineering work must aggregate 1½ hours a day, including a midday rest of at least half an hour.

The foregoing series of decrees has been amended or supplemented in several respects.

In brick and tile works (hand work) and other similar works the hours of labor were successively regulated by decrees issued December 26, 1892, May 1, 1894, and September 8, 1894. These were repealed and replaced by a decree issued September 22, 1896, which gives the regulations now in force. The daily hours of work for boys under 16 and girls under 21 must not exceed 12. When the period of actual work exceeds 8 hours, there must be 3 rest intervals, of which the total length must be at least 1½ hours, the one at midday occupying 1 hour. When the period of actual work exceeds 6 hours, 1 or more intervals of rest must be given, together equaling 1 hour. Whatever

be the period of actual work, there must be at least 15 minutes' rest for every 4 hours' work.

On December 31, 1892, a decree was issued by the King regulating in considerable detail the conditions of work as regards hours of labor and intervals of rest in the window-glass industry. A different system of shifts was in use in different branches of the industry. This decree establishes a uniform régime for all parts of the work. The hours of labor must not exceed 10½ for boys under 16 and girls under 21, broken by intervals of rest amounting to 1½ hours, which may be proportionately reduced if the daily hours of labor are less than 10½. Each period of employment is to be followed by an interval twice as long as the period of employment itself; but this provision may be modified in order to insure a whole day of rest in every 14 in accordance with the law of December 13, 1889. Boys from 14 to 16 and girls from 14 to 21 years of age may be employed after 9 p. m. and before 5 a. m., their period of employment and intervals of rest being regulated according to the rules governing day workers. Every other week boys from 14 to 16 and girls from 14 to 21 may be employed for a seventh day.

On March 15, 1893, a second series of decrees was issued, the purpose of which was to fix the hours of labor and rest in mines, quarries, and the large metal industries which, according to the law of April 21, 1810, were for the purposes of State control assimilated with mines and under the supervision of the ministry of agriculture and public works. As the present study does not embrace an examination of the regulation of labor conditions in mines and quarries, only the provisions of the decrees relating to the manufacture of iron and steel and other metals are here reproduced. These provisions are as follows:

The period of employment of work people protected by law must not exceed 10½ hours per day, with intervals of rest, the total length of which must be not less than 1½ hours. The intervals of rest may be reduced if the hours of actual work are reduced. Boys from 14 to 16 years of age and girls from 16 to 21, engaged in feeding the blast furnaces, may be employed from 9 p. m. to 5 a. m. under the same regulations that apply to the day work. Every other week boys from 14 to 16 may be employed a seventh day for feeding blast furnaces and zinc furnaces, but sufficient time must be allowed them to attend to their religious duties.

All of the foregoing decrees, it should be observed, contain provisions making it obligatory upon employers subject to their provisions to post in their establishments notices showing for the protected classes the hours at which work begins and ends and the intervals allowed for meals or rest. In order to complete this system and make its application general, a decree was issued November 4, 1894,

extending this obligation to all establishments comprehended under the law of December 13, 1889, which were not already embraced under the provisions of special decrees.

Returning now to the remaining provisions of the law of 1889, the most important are those relating to the method of enforcing the law. All boys and girls must be provided with pass books (*carnets*), which will be furnished to them gratuitously by the administration of the commune in which they reside, and which will indicate their names, places and dates of birth, their address, and the name, surname, and address of the father and mother or guardian. The form of these books will be determined by a royal decree. Heads of industrial establishments, employers, and managers must keep a register showing the same information for each boy and girl employed by them.

Employers and managers must also keep posted in a conspicuous place in their establishments a copy of the provisions of the present law, the general regulations promulgated for its execution, the special regulations relating to their industries, and their own shop regulations. Copies of this last paper must be deposited at the offices of councils of prudhommes and of the council of industry and labor and at the office of the secretary of the commune having jurisdiction over their establishments.

The penalties for violating the provisions of this law are as follows: Any head of an industrial establishment, employer, director, or manager who knowingly contravenes any provision of the present law will be punished by a fine of from 26 to 100 francs ($5.02 to $19.30). This fine will be imposed as many times as there are persons employed in contravention of the provisions of the law or decrees in relation to it, provided that the total amount of such fines does not exceed 1,000 francs ($193). In case of a second offense within 12 months from a former conviction the amount of the fines will be doubled, but can not exceed in total amount 2,000 francs ($386). The heads of industrial establishments are civilly responsible for the payment of fines imposed upon their directors or managers.

Any father, mother, or guardian who causes or permits his or her child or ward to be employed contrary to the provisions of the present law will be punished by a fine of from 1 to 25 francs ($0.19 to $4.83). In case of a second offense within 12 months from a prior conviction this fine will be doubled. All infractions of the law must be prosecuted within a year from the day upon which they were committed. By way of exception to article 100 of the Penal Code, chapter 7 and article 85 of the first book of that code are applicable to infractions of this law.

Provision is made for the organization of a factory-inspection service. The law provides that the Government shall designate officials to supervise the execution of the law, the specific duties of whom will be

determined by a royal decree. These officials must have the right of free entrance to all establishments comprehended under the law. They can demand the production of the pass books of the boys and girls, and the registers containing the same information. In case an infraction of the law is noted the inspectors must make a report concerning it, which will be considered as conclusive evidence in the absence of proof to the contrary. A copy of this report must be given within 48 hours to the person accused of breaking the law, in default of which no action can be taken upon the accusation.

Heads of industrial establishments, employers, managers, agents, and workingmen must furnish inspectors with any information demanded of them for the purpose of insuring the enforcement of the law. Any proprietor, employer, director, or manager who places any obstacle in the way of the supervision service organized in virtue of the preceding provisions will be punished by a fine of from 26 to 100 francs ($5.02 to $19.30), without supplanting in any way the application of the penalties provided for by articles 269 to 274 of the Penal Code. In case of a second offense within 12 months from a former conviction the fine will be doubled.

An inspection service was duly organized in virtue of the foregoing provisions. This service was ultimately merged into that for the enforcement of regulations relating to establishments which are dangerous, unhealthy, or nuisances. The two systems were therefore described in one place.

SHOP REGULATIONS.

An important step was taken in the gradual evolution of a labor code, which has been taking place since the report of the labor commission of 1886, by the enactment of a law, June 15, 1896, concerning shop regulations. This law covers a large number of points. It provides that shop regulations shall be prepared and posted in all industrial establishments, sets forth the matters that must be contained in these orders, regulates the imposition of fines, etc. An important feature of the law is that whereby the employees are given a voice in the framing of these regulations. The provisions of the law are so compactly stated that it is not advisable to attempt their condensation. The law is therefore reproduced in full:

1. In industrial and commercial enterprises, as well as provincial and communal undertakings, in which at least 10 workingmen are employed, written shop regulations must be prepared in the manner provided for in this law. This obligation can be extended by royal decree to enterprises employing less than 10 persons. Prior to 1900 it is extended to enterprises employing at least 5 persons. Exceptions to this provision are agricultural enterprises, as well as industrial and commercial enterprises where the employer only works with his house-

hold or members of his family living with him, or whose workmen can be considered as domestic or household servants.

The shop regulations must be drawn up in French, Flemish, or German, or in as many of these languages as may be required, so that they can be understood by all the employees of the establishment.

2. The regulations must indicate, according to the nature of the enterprise, (1) the commencement and end of the regular work period, the intervals of rest, and the days of regular cessation of work; (2) the manner in which wages are determined, and especially whether by the hour, day, piece, or undertaking; (3) when payment is by the piece or enterprise, the method of measurement and control; (4) the times of wage payments.

If the workmen are present in the establishment only for the purpose of obtaining the raw materials and returning the product of their work, number (1) of this article will be replaced by the indication of the days or hours when the establishment is accessible to them.

3. Where the nature of the enterprise makes it necessary, the regulations must also indicate (1) the rights and duties of the overseers and the recourse open to workingmen in cases of complaint or difficulties; (2) the materials furnished the employees and charged against their wages; (3) if a notice of dismissal is required, the length of notice that must be given, and the circumstances under which the labor contract can be broken without previous notice by either party; (4) if penalties or fines are imposed, the nature of the penalties, the rate of the fines, and the manner of their employment.

4. No penalties or fines other than those mentioned in the regulations can be imposed. Notice of penalties or fines must be given to the persons upon whom they are imposed the same day upon which they are levied, or, in case obstacles are encountered, as soon as possible. The names of the persons punished, the date and cause of the punishment, as well as the nature of the penalty or amount of the fine, must be entered in a register. This register must be approved before payment of wages by the head or director of the enterprise. It must be shown to the inspectors of factories whenever they request it.

5. A royal decree may also require that, in the categories of industries mentioned by it, the factory regulations shall also indicate (1) the special rules adopted for securing hygienic conditions, safety, morality, and good conduct; (2) the first care that will be given to workingmen in case of accident.

6. Within 6 months from the promulgation of the present law the King will call together the sections of the councils of industry and labor for the purpose of drawing up, in taking account of existing customs, types of regulations conforming to the provisions of the preceding articles.

7. Before entering in force, every new regulation or every change in a regulation must be brought to the knowledge of the workingmen by means of a poster. During at least 8 days following this posting the director of the enterprise must place at the disposition of his employees a register in which they, individually—or the circumstances requiring it, by their representatives or the shop council, or any other analogous delegation—can enter such observations as they may desire to make. The workingmen may during the same period address individually and in writing their observations to the inspector of factories of the district. The inspector will transmit these observations to

the head of the establishment within 3 days of their receipt. These observations must be signed by the workingmen; however, if they so express their wish, their names must not be communicated nor divulged.

Whether the regulations or amendments to the regulations are changed or not, they will enter into force 15 days after they are posted. The head of the establishment has the right to prolong this time, but its total duration must not exceed two months. When advantage is taken of this option, the posted regulations must mention the day upon which they will enter into force. The head of the establishment must send to the inspector of factories and the council of prudhommes a copy of the definitive regulations or amendments to the regulations.

8. Every regulation or amendment to a regulation must bear the attestation, duly signed by the head of the establishment, that the workingmen have been regularly consulted, as provided for in article 7 of the present law.

9. The regulations or prior existing usages will remain effective until the new shop regulations enter into force. However, if the regulations ought to contain, conformably to article 5, special rules concerning healthfulness, safety, morality, and good conduct, these regulations, in derogation to article 7, section 5, will enter into force provisionally from the day upon which they are posted.

10. The regulations made in conformity with the present law will unite the parties during the period of their contract, both as regards the obligatory provisions above indicated and as regards the optional provisions which are joined to them for the purpose of establishing the conditions of the labor contract.

11. The regulations must remain posted in the establishment in a conspicuous place. Every employee shall have the right to make a copy of them. The names and addresses of the persons delegated by the Government as inspectors of factories must be given below the regulations.

12. The heads of establishments subject to the present law must keep an exact register of their employees, according to the form prepared by the administration.

13. A royal decree will determine the establishments in which a copy of the laws and decrees relative to healthfulness and safety must be placed by the head of the enterprise at the disposition of his employees. The same decree will indicate the laws and decrees to which this obligation will relate.

14. The inspectors must be given free entrance into all places covered by the law. They shall supervise the execution of the present law, and make a report concerning all infractions of the law which shall be considered as established in the absence of contrary proof. A copy of the report must be sent within 48 hours to the person at fault, in default of which the charge will become a nullity.

15. The heads of establishments, employers, directors, or managers who do not provide shop regulations within the time fixed by law, or who falsely certify to the regular consultation of their employees, will be punished by fines of from 26 to 1,000 francs ($5.02 to $193). The heads of establishments, employers, directors, or managers who fail to include in their regulations one or more of the provisions provided for by articles 2, 3 (sections 1 and 2), 5, and 8 will be punished by a fine of from 26 to 500 francs ($5.02 to $96.50). In the above cases the penalty will be imposed a second time if the person punished neglects

to conform to the law within 3 months after the condemnation or the signing of the judgment of condemnation by default.

16. The heads of establishments, employers, directors, or managers who fail to comply with articles 4, 11, 12, 13, and 24 of the present law will be punished by fines of from 26 to 200 francs ($5.02 to $38.60).

17. The heads of establishments, employers, directors, or managers who place any obstacle in the way of supervision, organized in virtue of the present law, will be punished by fines of from 26 to 100 francs ($5.02 to $19.30), without prejudice of the application of the penalties provided for by articles 269 to 274 of the Penal Code. In case of a subsequent offense within 12 months of the former condemnation, the penalty will be doubled.

18. Chapter 7 and article 85 of the first book of the Penal Code are applicable to infractions to which the present law has reference.

19. The public action resulting from the infraction of the provisions of the present law will be prescribed yearly (*se prescrit par un an*).

20. The heads of establishments are civilly responsible for the payment of the fines pronounced against their directors or managers.

21. Royal decrees having for their object the extension of the obligation concerning factory regulations to establishments employing less than 10 persons, must indicate the date at which they will enter into force, and the delay that will be granted to the heads of establishments in which to conform to the legal prescriptions.

22. Heads of establishments shall have until December 31, 1897, to prepare and modify their regulations so that they will conform to the present law.

23. The following clause will be added after the first section of article 7 of the law of August 16, 1887, concerning the regulation of the payment of workingmen's wages, "also under the head of indemnities for badly-made work, the improper use of materials, or deterioration of materials, raw materials, or products."

24. The total fines imposed per day upon a workingman must not exceed one-fifth of his daily wages. The amount collected in fines must be employed for the benefit of the workingmen.

PAYMENT OF WAGES.

One of the first acts passed in accordance with the recommendations of the labor commission of 1886 was that of August 16, 1887, concerning the payment of workingmen's wages. This law, the purpose of which is to insure that employees shall receive their wages in cash, except under certain specified conditions when they may be remunerated in other ways, is very brief and is reproduced in full:

1. The payment of wages of workingmen must be in coin or legal current notes. All payments made in any other way will be treated as null and void.

2. An employer may, however, deduct from the wages of his employees charges for (1) the furnishing of lodging; (2) the use of a plat of ground; (3) the supplying of tools or implements necessary for their work and the keeping of them in repair; (4) the furnishing of the goods or materials necessary for the work of which the employees have charge, according to custom or the terms of their contract; and (5) the provision of such uniform or special dress as the employees

are required to wear. The articles enumerated in (3), (4), and (5) must not be reckoned at a price greater than their cost.

3. The permanent deputations may authorize employers to deduct from their employees' wages charges for the supply of food, clothing, and fuel, provided that they are furnished at cost price. These authorities must at the same time determine the other conditions to which this authorization is subject. Where there is a council of industry and labor in the district, these conditions must be first submitted to its consideration or that of a competent section. This authorization may always be revoked where the privilege is abused, after the council of industry and labor or its proper section has been heard. When an authorization has been refused, or has been revoked, an appeal may be made to the King within a month from the time when the permanent deputation notified the person interested of its action.

4. Wages must not be paid to workingmen in saloons, drinking places, stores, shops, or places attached to them.

5. Where wages are not in excess of 5 francs ($0.97) per day they must be paid to the workingmen at least twice a month and at least at intervals not exceeding 16 days. In piece or task work a partial or final adjustment of wages due must be made at least monthly.

6. With the exception of the numbers (3), (4), and (5) in article 2, employers, directors, overseers, foremen, employees of a public or private administration, and heads or subheads of enterprises are prohibited from imposing upon any employees working under their orders any arrangement or from making any agreement with them by which employees give up their right freely to dispose of their wages as they see fit. Nevertheless, lodging and the use of a tract of ground as provided for in numbers (1) and (2) of article 2 may be made the subject-matter of a contract between the employers, directors, foremen, overseers, employees of a public or private administration, or heads or subheads of an enterprise and their employees, provided such contract is freely entered into.

7. Deductions can only be made from the wages of an employee (1) on account of fines duly provided for by the interior shop regulations posted in the establishment; (*a*) (2) on account of contributions due from the workingman to the aid or provident funds; (3) materials furnished in accordance with the conditions authorized by articles 2 and 3; (4) advances of cash made to the employee, but not in excess of one-fifth of the wages. The purchase price of a lot sold to the employee for the purpose of being built upon is considered as an advance.

8. Except in the case of materials furnished in relation to the trade (*commerce*) exercised by the employee, the action of the employer, director, overseer, foreman, employee of a public or private administration, or head or subhead of an enterprise having for its object the payment of material furnished under conditions other than those indicated in articles 2 and 3, will not be allowable.

9. Until the contrary is proved, anything furnished by the wife or

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a The law of June 15, 1896, concerning shop regulations added to this section the following clause, "also under the head of indemnities for badly-made work, the improper use of materials, or deterioration of materials, raw materials, or products." This law also provides that "the total fines imposed per day upon a workingman must not exceed one-fifth of his daily wages. The amount collected in fines must be employed for the benefit of the workingmen."

children of the employer, director, overseer, foreman, employee of a public or private administration, or head or subhead of an enterprise, is presumed to be made by the employer himself, the director, overseer, foreman, employee of a public or private administration, or head or subhead of an enterprise. In the same way, all material furnished to the wife or children of an employee living with him is presumed to be made to the employee himself.

10. The employer who breaks, or causes any of his agents to break, any of the provisions of articles 1 to 7, inclusive, will be punished by a fine of from 50 to 2,000 francs ($9.65 to $386).

Directors, overseers, foremen, employees of a public or private administration, and heads or subheads of industrial enterprises who commit the same infractions will be punished by the same fines. However, if they have acted under instructions of their employer or of some one having authority over them, and themselves have no personal interest in the matter, they will only be subject to fines of from 26 to 100 francs ($5.02 to $19.30), the payment of which may be enforced against the employer without the latter having any right of recourse to the person convicted.

All action in reference to the infractions of the law as set forth in this article must be taken within 6 months from the day upon which the infraction took place.(*a*)

11. Book I of the Penal Code, without excepting chapter 7 and article 85, is applicable to the infractions above mentioned.

12. The present law does not relate to agricultural workers, nor domestics, nor in a general manner to workingmen lodged and boarded at the homes of their employers.(*b*)

13. The present law will go into force December 31, 1887.

The foregoing law is largely self-explanatory. It is only desirable to call special attention to one feature. In order that the prohibition of the payment of wages in other than money or as limited in the act might not work a positive injury to the workingmen if rigidly adhered to in all cases, the law gives to the permanent deputations of the provincial councils the right to authorize employers to deduct from the wages of their employees charges for the supply of food, clothing, and fuel, provided these articles are furnished at a price not exceeding their cost. The provincial councils may exercise their discretion in granting these permissions, and may impose such conditions as they deem proper. The important feature to be here noted is that the policy was pursued of intrusting this matter to a competent board, rather than of attempting to regulate in detail by law the circumstances under which such permission should be granted. The employees also have an

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a The following paragraph was here inserted by the law of June 17, 1896:

Notwithstanding any contract to the contrary, the workingmen shall always have the right to control the weighing, measuring, or other operations necessary for determining the quantity or quality of the work which is furnished them and thus far fixing the amount of their wages. Whoever hinders the workingmen in exercising this control will be punished in accordance with paragraph 1 of article 10. All action in respect to this infraction must be taken within 6 months, in conformity with paragraph 3 of article 10.

b The article of the law of June 17, 1896, given in note *a*, however, applies to all workingmen.

opportunity of expressing their opinion through the councils of industry and labor, as these bodies, when they exist, must always be consulted before definite action is taken.

ARBITRATION TRIBUNALS: COUNCILS OF PRUDHOMMES.

The councils of prudhommes, in Belgium, originated in the French law of March 18, 1806, which, while primarily enacted for the purpose of creating such a council at Lyons, also provided that similar bodies might be constituted by decree elsewhere. In pursuance of this law, councils were first created in Bruges in 1809 and in Ghent in 1810. From this beginning, the system gradually spread over the Kingdom.

The law regarding these councils has been changed a number of times, notably by acts passed April 9, 1842, and February 7, 1859. The organization and work of the councils were thoroughly investigated by the labor commission of 1886. As the result of its recommendation, a new organic law was passed July 31, 1889, which repeals all former legislation and places the councils upon a somewhat new basis. This law, as slightly modified by an act passed November 20, 1896, constitutes the law now in force. The law of 1896 provided that the King might modify, by decree, the provisions of the organic law of 1889 concerning the procedure to be followed at elections. In accordance with this provision the King, by a royal decree dated January 8, 1897, replaced these provisions by others contained in his decree. This decree should therefore be considered in conjunction with the laws of 1889 and 1896 in stating the legislation now existing in reference to councils of prudhommes. Following is a summary of their legal provisions:

Councils of prudhommes are created for the purpose of settling by means of conciliation if possible, and when this can not be done, by means of a judicial decision, disputes that may arise between heads of industrial establishments and their employees, or between the employees themselves, within the limits and according to the methods provided by the present law. They shall also have certain other functions as specially conferred upon them by law.

By heads of industrial establishments (*chefs d'industrie*) are understood manufacturers, owners, general directors, and administrators of industrial establishments or of industrial arts; contractors who employ their workingmen in an industrial work; operators, engineers, directors, or subdirectors of mining work, quarries, and establishments for the manufacture of iron and steel and other metals, and proprietors and persons equipping maritime fishing vessels.

By employees are meant journeymen, foremen, workingmen employed in the shops or on the account of employers, and the owners and fishermen constituting the crews of maritime fishing vessels.

A council of prudhommes can only be created by law, which fixes

the boundaries of its jurisdiction. The law may establish in the same district several councils relating specially to certain trades or industries, or certain groups of trades and industries, when such trades or industries are of sufficient importance to warrant the creation of special councils for their benefit.

A council may be divided into a number of special chambers. The number of members and the composition of each council and its chambers will be determined by royal decrees. Before action is taken the communal councils of the district and the permanent deputation of the provincial council must be given an opportunity to express their opinions.

Councils of prudhommes must consist of at least 6 members, exclusive of their president and vice-president, if they are selected from outside the councils. The chambers of a council must be composed of not less than 4 members.

Members of the councils and the special chambers must be elected half by the heads of industrial establishments and half by the employees, as above defined. Not less than 4 alternates (*suppléants*) must be chosen for each council.

A special electoral body must be constituted for each council, composed of electors belonging to the industries over which the council has jurisdiction. To be an elector one must be either a head of an industrial establishment or employee as above defined, a citizen of Belgium, at least 25 years of age, a resident in the district of the council during at least the preceding year, and must have followed his trade or industry there during at least the preceding 4 years. Persons, however, who are not residents of the district, but fulfill the other conditions, may, upon their request, be placed upon the list of electors.

The following persons are prohibited from being electors: Those who have been deprived of the right of suffrage in consequence of a criminal conviction; those who have been declared bankrupt, or who have made over their property to another party, as long as their creditors are not fully paid; those who are notoriously known as keepers of houses of prostitution or debauchery; and those who have been condemned to punishment for crime or convicted of theft, swindling, abuse of confidence, or attempt against morals. The prohibition in the last case continues for 50 years from the date upon which the person was convicted of a criminal offense, or ten years in case the offense was a petty one (*peine correctionnelle*).

The list of electors remains in force until the next regular revision, which must be made every 3 years by the board of aldermen (*collège des bourgmestre et échevins*). These lists must be prepared by groups of industries and in alphabetical order. They must show for each person his name, the place and date of his birth, the date at which he

was naturalized or became a Belgian, if necessary, and the trade or industry that he follows. Copies of the lists, as first prepared, must be posted by the authorities and sent to the commissioner of the arrondissement on the 15th of February. Any complaints in respect to them must be addressed to the board of aldermen prior to March 1. This body, after considering these complaints, will prepare a revised list. Where names are added or struck from the lists, the reasons for such action must be given and the names posted from March 4 to March 12. Where names which were on the old or the provisional lists are removed, the persons affected must be informed of such action, with the reasons for it, within the 48 hours following.

Copies of these lists, together with all complaints received and all papers by means of which the persons registered have justified their rights or on account of which their names were stricken off, must be sent by the communal authorities to the commissioner of the arrondissement within 24 hours after the lists are closed, and this officer must acknowledge their receipt and enter the fact in a special register. A copy of the list must also be retained at the office of the secretary of the commune and another one be sent to the governor.

The lists will be printed or otherwise mechanically reproduced whenever 100 copies are applied for. Where this is done every person making application prior to February 1 must be furnished with a copy. The price to be paid for them will be fixed by the communal authorities but must not exceed 1 franc ($0.19) per copy where the list does not comprise more than 1,000 electors or 1 franc ($0.19) additional for every 1,000 names beyond this number.

All persons have the right to inspect or copy the lists and other documents at the office of either the secretary of the commune or the commissioner of the arrondissement.

An appeal from the action of the communal authorities in respect to the making up of the list of electors may in all cases be made by any interested party to the court of appeals of the district. This action must be taken not later than March 31. Lists of all appeals must be prepared by the commissioner of the arrondissement and copies of them be posted in his office and sent to the communal authorities to be posted by them. Any person enjoying full civil and political rights may within the 10 days following such posting intervene in a dispute by means of a request to the court of appeals sent through the commissioner of the arrondissement. This latter officer may himself intervene by virtue of his office. The complainants and those whose registry is demanded must file their written arguments not later than April 30, and the defendants in the case of demands for the removal of their names from the lists must file their answers and arguments not later than May 31. The papers in the case must be open to the inspection of the parties at any time during office hours.

By July 5 all the papers relating to the electoral lists, as well as the lists themselves, must be sent to the court of appeals by the commissioner of the arrondissement. An appeal may be taken from the court of appeals to the supreme court, in which case the registrar of the latter body must inform the registrar of the lower court of the action taken upon such appeal. Not later than October 15 the registrar of the court of appeals must send to the governor a statement of the result of all appeals. This officer will then promulgate by decree the final list of electors in accordance with the decisions rendered by the courts. These lists must enter into operation before March 1 following the revision.

Any elector 30 years of age is eligible as a member of a council. Heads of industrial establishments who have retired from business and former employees, provided they fulfill the other conditions of electors, may also be called to take part in the councils; in no case, however, shall such persons constitute more than one-quarter of the membership of a council. This proportion applies separately to the employer and the employee representatives. A person following the trade of innkeeper (*aubergiste*) or liquor dealer, or whose wife keeps such an establishment, is, however, ineligible, as well as persons who have been convicted of criminal offenses or sentenced to imprisonment for more than 6 months. Two persons exercising authority in the direction of the same industrial establishment or two employees in the same shop must not be elected members of the same council, nor two persons related to each other as closely as the second degree.

In general, elections take place by communes, but when there are less than 30 electors to a commune a number of contiguous communes can be grouped in a single voting district by royal decree.

Notice of all elections, indicating the number and occupation of prudhommes to be elected, must be given to the electors by means of circulars posted and sent to each elector. Where a second ballot is necessary at least 13 days must elapse between the two counts.

The employer and the employee electors meet in separate assemblies and select their delegates.

When the number of electors in a voting district exceeds 400, the governor must divide them into sections, so that not more that 400 nor less than 30 electors are in any one section. This division into sections must be by industries and in alphabetical order of the names of the electors. The first section will be called the principal section, and to a certain extent will have charge of elections in all the districts.

Each electoral section must be presided over by a member of the communal council of the place at which the election takes place, as designated by the board of aldermen. These presidents must appoint tellers and secretaries, and all must make oath to perform their duties faithfully.

Candidates must be nominated at least 15 days before the date fixed for the election by a paper filed with the president of the principal section. To be valid, nominations must be signed by at least 25 electors in districts having over 1,000 electors, and by at least 10 in districts having a smaller number. They must indicate the names, addresses, and occupations of the persons proposed and the electors making the nominations, be dated, and state the special duties desired by the candidates.

Candidates must accept their nomination either verbally by presenting themselves to the president of the principal section, accompanied by two witnesses, or in writing to that officer.

At the expiration of the time fixed for the making of nominations the principal sections of the employer and employee electors, respectively, must prepare and post in all the communes of the district lists of the candidates that can be legally voted for. If there is but one list of candidates proposed, the principal section will declare the persons there named to be duly elected.

Where there are more than one list a ballot will be taken by list (*scrutin de liste*). No person will be declared elected unless he receives a majority of the votes cast. If all the members of the council are not elected on the first ballot, a list will be made of the candidates in each of the classes who have obtained the largest number of votes, including, when possible, twice as many names as there are vacancies to be filled. Upon the second ballot for persons contained in this list, those receiving a plurality will be declared elected. In the case of a tie vote the older candidates will be preferred.

Upon the conclusion of an election all the records, lists, and ballots must be sent to the governor, and a copy must be filed at the office of the commune where the council has its headquarters, so that it may be freely inspected. Protests against the certification of the election of any member may be made to the court of appeals within the 10 days following the report, and a further appeal may be taken to the supreme court. When an election is partially or totally annulled the proceedings which were declared invalid must be recommenced.

One-half of the membership of the councils of prudhommes and their alternates must be renewed every 3 years, an equal number of employers and employees going out each time. Members are reeligible.

Whenever through death or resignation the number of members of either category is reduced by more than one-half, special elections must be held to fill the vacancies, each person so elected serving only during the unexpired term of his predecessor.

Any member who absents himself from the meetings during two consecutive months without the permission of the council or without a legitimate reason, or who ceases to possess the necessary qualifica-

tions during his term of office, will be removed from the council by the court of appeals of the district. Such removal may be made either at the instance of the council or at the instance of any party appearing before the council. When the removal is requested by a vote of the council notice must be sent to the member in question, who, if he sees fit, may contest the matter. The court of appeals must render its decision within 8 days, and inform the president of the council and the governor of the province of its action. An appeal may be taken by either party to the supreme court.

The president and vice-president of each council are appointed by the King by royal decree, the selections being made from lists prepared by the employer and employee members, respectively. One name must be taken from each list. The president and vice-president need not be members of the council. They serve for 3 years and are reeligible.

When special committees are formed within a council they shall elect their own presidents and vice-presidents from among their number.

In all cases of a tie vote the president shall decide.

Each council must be provided with a registrar (*greffier*) appointed by a royal decree from a double list of candidates prepared by the council.

The method of electing and organizing the councils having been briefly described, attention will now be turned to their functions and the manner in which they must be performed. The most important duty of the council is to act as a labor court for the adjustment of minor disputes between employers and their employees, and in certain cases between the employees themselves.

The extent of the powers of the councils is thus set forth by the law:

The councils of prudhommes have jurisdiction concerning disputes either among employees or between employers and their employees of either sex regarding any matter relating to work done, labor, or wages in the branches of industry for which the councils are created. Their territorial jurisdiction is fixed by the locality of the factory, and in the case of houseworkers, by the place where the contract is made.

Parties to a dispute may also at any time by common accord refer the matter to a council of prudhommes for conciliation, even though the matter does not fall within the jurisdiction of the council. In these cases the parties must make a formal request in writing for the intervention of the council. This provision also applies to disputes between heads of industrial establishments.

The competence of councils regarding matters within the scope of their powers extends to all disputes, no matter what the amount in dispute. Where the claim does not exceed 200 francs ($38.60) in value their decision is final. Where a larger sum is involved an appeal may

be taken to the tribunal of commerce, except in the case of mines, where the civil courts have jurisdiction. No appeal from interlocutory orders is permitted except in connection with an appeal from the final judgment of the council.

Where a claim is opposed by a counter claim, and each one is susceptible of being decided finally by the council, no appeal can be taken. When one of the claims, however, can be appealed, both can be appealed.

The effort must always be made to settle disputes brought to the attention of the councils by means of conciliation. For this purpose each council must create within its body a board of conciliation to consist of two members, one an employer and the other an employee. Alternates must be selected to act in the absence of the regular members. The board will also be assisted by the registrar. The term of office of members is 3 months, but members are reeligible.

All disputes must first be brought before this board. If the latter fails in its efforts to conciliate the parties the matter is then turned over to the full council. The board must hold at least one meeting each week. Extra meetings may be called by the president of the council, and the latter may, if he deems it advisable, send the parties before two members other than those who compose the board of conciliation.

When a dispute is brought before the council another attempt at conciliation must be made before further action is taken.

The parties to a case, either before the board of conciliation or the council, are summoned by the registrar at least one day before the session, by means of a letter indicating the place, day, and hour when they are to appear. If they fail to appear they are summoned by a constable (*huissier*).

When parties are prevented from attending personally, the council may authorize them to be represented by one of their clerks, superintendents, foremen, or by a workingman.

The summons must indicate the place, hour, day, month, and year of the appearance, and the names, occupations, and actual residences of the parties, and must give a brief statement of the object or motive of the complaint.

The summons may be made in person or be delivered at the residence of the defendant, and if no one is found there, it must be left with the mayor or one of the aldermen. At least one day must elapse between the delivery of the summons and the day of the appearance of the party, if he lives within a radius of 3 myriameters (18.6 miles). If he lives farther, one additional day is allowed for each 3 myriameters (18.6 miles). In urgent cases the president may order the immediate appearance of the parties.

The president directs all meetings. The parties must express themselves with moderation, and the same order and respect must be main-

tained as in a court of justice. Any infractions in this respect may be punished by a fine not exceeding 10 francs ($1.93). In case of grave insult or disrespect the council may sentence the guilty party to imprisonment for not more than 3 days. Persons in the audience who cheer or create any disturbance must be expelled by the president, and if they resist they may be imprisoned during 24 hours. If the disturbance is accompanied by acts of violence, the guilty parties must be arrested by order of the president and turned over to the proper authorities.

In cases of urgency the council or the board of conciliation may order that such steps as are necessary be taken to prevent the removal or destruction of the object of the claim. Either the council or the board of conciliation may send one or more members to verify allegations on the spot, and if necessary hear testimony there. In this case the registrar must accompany the members and take the minutes of the inquiry.

If the parties disagree as to the facts the council of prudhommes may summon witnesses to establish them. The witnesses must be sworn, and state their names, ages, places of residence, and relations to the parties to the cause.

The witnesses must be heard separately in the presence of the parties if they appear. The latter must make any objections they may have to the witnesses before their testimony is taken.

Witnesses must not be interrupted while they are testifying, but at the close of their testimony they may be cross-questioned by the parties through the president.

In cases which may be appealed, the registrar must take down the testimony in writing, and the written testimony must then be read to the witness and be signed by him, the president, and the registrar. Judgment must then be rendered either immediately, or, at the latest, at the next session.

In cases where final judgment may be rendered the testimony is not put in writing, but the name, age, residence, etc., of witnesses and the results of their testimony must be announced in the sentence.

Members of the council may be excluded from service if they have a personal interest in the case; if they are related to the parties; if there have been criminal proceedings between them and any of the parties or their relations; if a civil case is pending between them and either of the parties; if they have given any written advice in the case, or if they are either employers or employees of either of the parties to the case.

Persons desiring to exclude members of the council from service must hand to the registrar a formal declaration setting forth their reasons. The member objected to must within the next 2 days attach to this declaration his written answer acquiescing in or contesting his disqualification. When the member contests his exclusion, or fails to answer, the matter must be referred to the state's attorney for the district, who must render his decision within 8 days.

If on the day appointed in the summons one of the parties does not appear, judgment must be rendered by default, but the party against whom judgment was rendered may, upon giving formal notice of his objection within 8 days, have an opportunity to show cause why the judgment should not stand. If judgment by default is taken upon a second hearing, no further action can be taken by the person against whom the judgment is rendered.

The provisional execution of judgment may be ordered with or without security up to 200 francs ($38.60). Over 200 francs ($38.60), judgment can not be executed unless security is given.

All sentences must be entered upon the record, and must be signed by the registrar and by the president. This entry must contain the names of the members, the names, occupations, and residences of the parties, as well as a summary of the complaint, the defense, the judgment, and the reasons therefor.

The party losing a case must be formally notified of the judgment pronounced by the council, and the judgment may be executed within 24 hours.

Appeals may be taken on questions of jurisdiction, or on matters over which, as above described, the councils decide only as courts of first resort. If the council declares itself competent, the appeal can not be taken until after final judgment has been rendered.

Costs are assessed against the defeated party.

The councils must hold at least two regular meetings each month, and special meetings may be called by the president whenever the circumstances are such as to render this action desirable. No session shall take place unless there is an equal number, not less than 2, of employer and employee members present. When the president and vice-president are selected from outside the membership of the council they are not taken into account in this connection. Either the president or vice-president must be present at all meetings.

Whenever the number of employer and employee members is not the same, the council must designate a sufficient number of the more numerous class to retire in order that an equality may be established. In case of any disagreement the youngest members are excluded.

If at the time designated for a meeting to consider any matter a sufficient number of members are not present, the meeting must be adjourned to another day. The registrar of the council must then summon the members to a new meeting by means of a notice in writing sent to their address at least 3 days before the meeting. In this notice attention must be called to the impossibility of holding a meeting owing to the lack of sufficient members, and to the provisions of the law in reference to delinquents in such cases.

If the same condition of affairs exists at the second meeting, the

council must prepare a report showing this fact and send it to the state's attorney (*procureur général*). The absent members will then be summoned before the court of appeals to explain their failure to attend the meetings. When a sufficient reason for their neglect is not given, they may be condemned to pay a fine of from 26 to 200 francs ($5.02 to $38.60), or to imprisonment from 3 to 8 days, or both. Members thus punished will be considered as removed from the council.

After the council has failed the second time to secure the attendance of members for the hearing of any dispute, either of the parties may then take the matter before a justice of the peace, from whose action an appeal may be taken to the commercial or civil courts, according to the nature of the case, and where the matter in dispute exceeds 200 francs ($38.60) in value.

The councils of prudhommes, in addition to their function of adjusting civil disputes in relation to labor as above described, have certain functions in the nature of police powers. Without interfering with the power of the ordinary tribunals to prosecute such offenses, the councils may, by way of discipline, suppress acts of bad faith, grave neglect, or other acts tending to disturb the order and discipline of workshops. For this purpose fines not to exceed 25 francs ($4.83) may be imposed. An appeal from this sentence may be taken to the lower civil court of the arrondissement. To take advantage of this right a formal declaration of appeal must be made within 8 days from the imposition of the fine.

Finally, these bodies may be called upon by the King to serve in an administrative capacity as advisory boards to give their opinions concerning any questions relating to labor or industry that may be placed before them.

The members of the council are allowed a per diem while in attendance upon council meetings, the amount of which will be determined in each province by the permanent deputation of the provincial council, according to the average value of a day's labor. Travel pay is allowed the members if they live more than 5 kilometers (3.1 miles) from the seat of the council, the rate being determined by royal decree.

The registrar receives an annual salary from the State as fixed by the decree instituting the council. He must pay all expenses for paper, records, and writing material and miscellaneous minor office expenses. A royal decree determines the rights and emoluments of the registrar, the salaries and allowances of constables (*huissiers*), as well as fees allowed experts who testify at hearings. No charges can be made by registrars or constables other than those prescribed, under penalty of criminal prosecution.

The expenses of the councils are paid by the communes within the jurisdiction of each council in proportion to the number of working

people employed in each commune, the apportionment being made by the permanent deputation of the provincial council. The rooms necessary for holding the meetings of the councils, as well as the places of confinement of persons under arrest, must be furnished by the communes where the councils have their sessions.

COUNCILS OF INDUSTRY AND LABOR.

The Belgian councils of industry and labor are unique institutions, and as such deserve careful attention. To a certain extent they serve the same purpose as the guild organizations of Germany and Austria in respect to the handicraft trades. As M. Morisseaux, the director of the Belgian labor bureau, expresses it, "each council of industry and labor is in reality a small industrial parliament which occupies itself with the common interests of employers and employees, according to a programme traced in advance by the governmental authority. They are consultation bodies which sometimes act as conciliation committees."

The origin of these councils is found in propositions for the purpose of putting into execution the recommendations of the labor commission for the organization of a system of tribunals for the arbitration or conciliation of industrial disputes. The measure proposed by the labor commission had in view simply the adjustment of labor difficulties. During its course through Parliament, however, the scope of this bill was very materially widened, so that in the law enacted the proposed councils of labor, instead of being intrusted simply with the settlement of labor disputes, were given other important duties concerning labor matters. They were, in fact, made bodies, consisting of duly elected representatives of both employers and employees, for fixing within certain limits the conditions of labor.

The law creating these councils was passed August 16, 1887. Following is a summary statement of its provisions:

There shall be created in every locality in which its utility is demonstrated a council of industry and labor. This council shall have as its mission the consideration of the mutual interests of heads of industrial establishments and employees, in order to prevent and, if required, adjust disputes that may arise between these two classes. A council may divide itself into as many sections as there are distinct classes of industries in its district, care being taken to unite in each those persons most competent to judge concerning matters pertaining to the industry to which it relates.

Councils shall be created by royal decree, either upon the direct initiative of the King or upon the request of the communal council or of the employers and employees who are interested. The decree shall in each case fix the boundaries, the industries to which the council relates,

and the number and nature of the sections. Each section shall be composed of an equal number of employers and employees, as these classes are defined by the organic law of the councils of prudhommes. These definitions are as follows: By heads of industrial establishments (*chefs d'industrie*) are understood manufacturers, owners, general directors, and administrators of industrial establishments or of industrial arts; contractors who employ their workingmen in an industrial work; operators, engineers, directors, or subdirectors of mining work, quarries, and establishments for the manufacture of iron and steel and other metals, and proprietors and persons equipping maritime fishing vessels. By employees are meant journeymen, foremen, workingmen employed in the shops or on the account of employers, and the owners and fishermen constituting the crews of maritime fishing vessels.

The number of members in each section shall be fixed by the decree creating the council, but must not be less than 6 nor more than 12.

The manner in which the members of the councils are selected is only determined in a general way by the law. The details were first fixed by a royal decree issued August 15, 1889, which was replaced by a royal decree dated March 10, 1893, the latter being subsequently modified in minor particulars by decrees dated March 26, 1897, and April 11, 1897.

As regards the election of the workingmen representatives, the law simply provides that the workingmen shall choose from among their number delegates and alternates to represent them in the sections according to the manner and conditions fixed by the law concerning councils of prudhommes. The order of 1893 gives these conditions and methods in great detail. In order to be an elector the person must be a workingman as above defined, a citizen of Belgium, at least 25 years of age, and must have been actively employed during at least the preceding 4 years in the district of the council in one of the industries or trades to which that body relates.

A separate electoral body shall be constituted for each of the sections of a council, which shall be composed of electors belonging to the industry or trade to which the section relates.

The communal authorities must prepare alphabetical lists of electors for each electoral body separately. These lists must show for each person his name, the place and date of his birth, the date at which he was naturalized or became a Belgian, if necessary, and the trade or industry that he follows. Electors appear upon these lists according to their place of work, without regard to where they may reside.

Copies of these lists must be posted by the authorities, and also sent to the permanent deputations of the provincial councils. All disputes regarding these lists must be addressed to the permanent deputation within 10 days from the date of their posting, and this body shall decide the matter. The revised list must be prepared within 42 days

from the posting of the original list. These definite lists shall be deposited at the office of the secretary of the commune in which the council has its headquarters, and copies of them shall be sent to the secretaries of the other communes. The lists thus prepared shall remain in force until the next regular triennial revision.

To be eligible as a member of a council, the workingman must be an elector and not less than 30 years of age. The following persons are, however, ineligible both as electors and members: Those who have been deprived of the right of suffrage in consequence of a criminal conviction; those who have been declared bankrupt, or who have made over their property to another party as long as their creditors are not fully paid; those who are notoriously known as keepers of houses of prostitution or debauchery, and those who have been condemned to a criminal punishment or convicted of theft, swindling, abuse of confidence, or attempt against morals.

The communal authorities must give at least 10 days' notice of the holding of an election to the electors in their district in conformity with the instructions of the permanent deputation of the provincial council. This notice shall be given by means of notices posted and circulars sent to the electors.

An electoral college may, if necessary, be divided into as many sections as there are delegates to be elected. In such case the division shall be made according to the alphabetical list of electors. No section shall embrace more than 400 electors; not more than 5 sections shall meet in the same building, and each section shall have its own meeting place; one of the sections shall be designated as the chief section by the board of aldermen. Each of the sections shall be presided over by a member of the communal council of a commune included in the district as designated by the board of aldermen; or, if necessary, other persons may be designated for this service. The president of the principal section shall designate the tellers for all the sections, and the secretaries. The presidents, secretaries, and tellers must all make oath to perform their duties honestly and properly.

Candidates must be proposed at least 5 days prior to the election. Their nomination must be signed by not less than 10 electors in districts which embrace more than 200 electors, and by 4 electors in other districts. An alphabetical list of candidates shall be prepared. The latter must signify their acceptance of the nomination. A list of these shall be immediately posted. If only one list of candidates is proposed, these persons shall be declared to be duly elected, otherwise the principal section shall prepare and print the ballots, and the use of any other is prohibited.

Voting shall take place by list (*scrutin de liste*). No one shall be declared elected on the first ballot unless he receives two-thirds of the number of votes cast. If a sufficient number are not elected upon this

ballot, a list shall be prepared of those candidates receiving the most votes. This list must, if possible, contain twice as many names as there are vacancies to be filled. Those persons receiving a plurality of the votes cast at the second ballot shall be declared elected. In case of a tie vote the eldest shall be preferred.

A report of all elections must be prepared and sent to the permanent deputation of the provincial council within the 3 days following the voting. A copy must also be deposited at the secretary's office of the commune in which the headquarters of the council is situated, so that any person interested can inspect it.

Any complaint concerning an election must be formulated within 8 days after the filing of this report and transmitted in writing to the provincial council or mayor of the commune in which the headquarters of the council is situated. These complaints shall be transmitted within 3 days to the permanent deputation of the provincial council. The latter body must render its decision within the following month. The governor may within the following 8 days appeal the matter to the King, who must render a final decision within the ensuing month.

If there is in the district of any council a larger number of employers than is required as employer representatives on the council, the employers must proceed to an election of representatives in the same manner as is provided for the selection of workingmen representatives. If the number of employers in the district is insufficient, employers in similar industries taken from the neighboring districts will be designated by the permanent deputations. Alternates must in all cases be named.

The membership of councils must be renewed every 3 years. The term of service of both employer and workingmen representatives is 3 years but members are eligible for reelection. In case of the death or resignation of a member or his departure from the district or abandonment of the industry which was followed by him at the time of his election, an alternate shall be required to serve in his stead. The selection of these alternates for this duty shall be according to the number of votes they received when they were elected. If a delegate fails on three occasions to answer a summons he shall be considered as having resigned.

All sections must unite at least once a year on the day and at the place indicated by the order of the permanent deputation of the provincial council. The sections may also be convoked in extraordinary session by the permanent deputation upon the request of either the employers or employees.

Each section shall choose from among its members a president and a secretary. When a president is not elected by a majority vote, or when elected is absent for any reason, the section shall be presided

over by the eldest member present. Under similar circumstances the youngest member shall perform the duties of secretary.

The purpose of these councils, as has been indicated, is twofold, viz, serving as committees of conciliation and arbitration in labor disputes, and furnishing a means by which both employers and employees may give their opinions concerning proposed measures affecting industry and labor. Their duties, as respects the adjustment of labor difficulties, are set forth in the following brief paragraph: "When the circumstances seem to require it, the governor of the province, the mayor of the commune, or the president, shall, upon the request of the employers or employees, convoke the section relating to an industry in which a conflict seems imminent. This section shall use its efforts to terminate the difficulty. If an agreement can not be reached, a summary report of the proceedings must be published." No attempt, it will be observed, was made by the law to determine the methods to be pursued in attempting the settlement of disputes. The councils also have no power to enforce their decisions. The only coercion that they can exert is such as may result from the publicity given to their action. The main difference between these councils acting as conciliation committees and the councils of prudhommes is that the latter consider questions arising from a violation of contracts, and their action must be based upon such agreements, while the former deal with questions in which no contract is presumed, the object in view being rather to bring about the formation of new contracts on the best possible terms. Also, the decisions of the councils of prudhommes are binding, whereas, as has been stated, the opinions of the councils of industry and labor may be accepted or not, as the parties elect.

Turning now to the advisory functions of these bodies, the law provides that "the King may call together the council of any district in full assembly in order that it may give its advice concerning questions or proposals of general interest relative to industry or labor which he considers it desirable to submit to it. The King may also assemble a number of sections belonging to the same or different localities. Such an assembly shall elect its own president and secretary. Where such officers are not elected by a majority vote, or when elected are absent for any reason, the positions shall be filled by the eldest and youngest member present, respectively."

The Government exercises an effective control over the proceedings of the councils. The royal decree convoking a full assembly and the orders of the governor or permanent deputations convoking a section determine the order of business and fix the duration of the session, and no subject foreign to the business of the day can be considered. The Government may also appoint a commissioner to assist at the full meetings, to make such communications as it desires, and to take part in the debates concerning the questions or measures proposed.

When the employer members and the workingmen members are not equal in number, the youngest members of the more numerous class shall have only a consultative voice in the proceedings. The meetings shall take place with closed doors, but the council or section can decide whether or not the report of its proceedings shall be made public.

It is the duty of the communes in which the meetings are held to furnish the necessary quarters. A daily indemnity, the amount of which shall be fixed by the permanent deputation and carried on the provincial budget, shall be paid to members during their attendance upon the meetings.

The foregoing law, the chief provisions of which have been given, provided that councils should be created upon the request of the communal councils, or of employers and employees, or upon the direct initiative of the King. It was hoped that the local authorities and persons interested would move in the matter. The Government, therefore, waited 2 years after the promulgation of the law for such action. These bodies failing to take the initiative, the central government, after inviting the communal councils to give their advice on the subject, created 17 councils in various industries during the month of December, 1889. Other councils have been created in subsequent years.

The function of these councils as boards of conciliation or arbitration has been exercised to a limited extent only. Their importance as consultative chambers regarding industrial and labor matters has, however, steadily increased. The councils have not only been frequently summoned to give their opinion concerning proposed legislation, but, as has elsewhere been noted, they are given important powers in respect to the execution of the law of December 22, 1889, concerning the employment of women and children; the law of July 2, 1899, concerning the protection of the health and lives of industrial employees, and the law of August 16, 1887, concerning the payment of wages of workingmen. The effect of these provisions is that the workingmen, through these councils, can exercise an important influence in determining the conditions under which they shall labor and in the framing of new legislation.

To complete the organization of the councils of industry and labor, a higher council of labor (*conseil supérieur du travail*) was created by the King by a royal decree issued April 7, 1892. The object of this council, as stated by the minister of agriculture, industry, and public works in his report to the King, is "to give to the councils of industry and labor a center of action by creating a permanent body charged with the preparation of questions to be submitted to the various councils of industry and labor and to present to the Government general propositions summing up their conclusions." The local councils thus serve as bodies through which the employers and employees can

express their opinions concerning matters relating to labor, while the higher council formulates the questions to be submitted to them, takes account of their action, and drafts the bills to be submitted to the Parliament, or recommends other lines of action.

This body has played an important part in the framing of recent labor legislation. It is attached to the ministry of industry and labor, and is composed of 48 members, 16 of whom are employers, 16 are workingmen, and 16 are persons who have a special knowledge of economic and labor matters. The council draws up rules for its own management. It is governed by a president, 3 vice-presidents, and a secretary. It may form subsections for particular purposes. The president, senior vice-president, and secretary must be members of each such subsection. All questions are decided by a majority vote. No resolution can be passed unless half the members are present. Each member receives 6 francs ($1.16) for every meeting he attends. The report of the proceedings is published by the minister of industry and labor.

STRIKES.

Workingmen, as has been shown, have the full right to form associations having in view the betterment of their condition. This right includes that of forming temporary coalitions for the purpose of enforcing their demands; in other words, of engaging in strikes. While a workingman can not be punished for the mere act of engaging in a strike, abuses of this privilege are punishable. For the purpose of making the law in relation to this point more definite a special act was passed May 30, 1892. A translation of this law, which is very brief, follows:

Any person who, for the purpose of compelling the raising or lowering of wages or of making an attack upon the free exercise of industrial work or labor, commits acts of violence, offers injuries or threats, imposes fines, prohibitions, interdictions, or proscriptions of any kind, either against those who work or those who furnish others with employment, shall be punished by imprisonment of from one month to two years and a fine of from 50 to 1,000 francs ($9.65 to $193), or one of these penalties only.

The same penalty shall be imposed upon those who make an attack upon the liberty of employers (*maîtres*) or workingmen, either by congregating near establishments in which work is being carried on or near the dwelling places of those who direct the work, or by perpetrating acts of intimidation toward workingmen who are going to or returning from work, or by causing explosions near establishments in which work is being carried on or in localities inhabited by workingmen, or by destroying the fences (*clôtures*) of establishments in which work is being carried on or houses or lands occupied by workingmen, or by destroying or rendering unfit for the use for which they are intended tools, instruments, apparatus, or engines of labor or industry.

BUREAU OF LABOR.

Provision was first made for the creation of a special service for the collection of statistics in relation to labor by the royal decree of November 12, 1894. This decree provided for the creation of a bureau under the ministry of agriculture, industry, labor, and public works, to be known as the Office du Travail. The duties of this bureau were specified in considerable detail, but in general cover the same ground as those of the French, English, and American labor bureaus. The bureau was directed to publish the results of its inquiries in special reports, and also to publish a monthly review giving information concerning labor conditions, nonemployment, strikes and lockouts, arbitrations, prices, and a large number of other subjects.

In 1895 a separate department of industry and labor was created by the royal decree of April 12 of that year, and the Office du Travail made a bureau of that department. In addition to special reports this bureau publishes a monthly review (Revue du Travail), begun January, 1896; an annual compendium of labor laws, domestic and foreign, begun in 1897, and the annual reports of the inspectors of factories.

SWITZERLAND. (*a*)

In examining the industrial legislation of Switzerland one has to deal with a situation similar in many respects to that presented when a like study is attempted for the United States. Each of the Cantons (*b*) constituting the Helvetian Confederation, like our own States, has the general power of regulating its domestic affairs. Article 3 of the Federal constitution reads: "The Cantons are sovereign so far as their sovereignty is not restricted by the Federal constitution, and as such they may exercise all rights which are not delegated to the Federal powers." For this reason, and because of the difficulty of securing the necessary official documents resulting from this fact, the

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a In the summary of the laws of Switzerland here given use has been made of copies of laws and reports kindly furnished by the Federal department of industry of Switzerland, and the following works:

Royal Commission on Labor, Great Britain. Foreign Reports: Switzerland, 1893.

Annuaire de la législation du travail. 1re année, 1897; 2e année, 1898. Office du Travail, Belgique, 1898 and 1899.

Publications of the French Labor Bureau, notably the report, Hygiène et sécurité des travailleurs dans les ateliers industriels, 1895.

Conrad's Handwörterbuch der Staatswissenschaften, and the two supplemental volumes published in 1895 and 1897.

Les lois protectrices du travail en Suisse, par H. Wegmann. A report made to the Congrès International de Législation du Travail, à Bruxelles, 1897.

Notes de Suisse: Les lois protectrices du travail, par Émile Waxweiler. Revue de l'Université de Bruxelles, juillet–septembre, 1896.

Social Switzerland, by William H. Dawson. London, 1897.

b Zurich, Bern, Lucerne, Uri, Schwytz, Unterwalden (Upper and Lower), Glarus, Zug, Freyburg, Soleure, Basel (Town and Land), Schaffhausen, Appenzell, Saint Gall, Grisons, Aargau, Thurgau, Ticino, Vaud, Valais, Neufchâtel, and Geneva.

present account of labor laws in Switzerland is not as complete on all points as that of the laws of the other countries whose legislation has been passed in review. Fortunately, however, it is possible to give a fairly comprehensive account of those branches of labor legislation that are of the most importance, viz, protective labor laws, or those relating to the employment of women and children, the protection of the health and lives of employees, inspection of factories, payment of wages, Sunday and night work, apprenticeship, and arbitration tribunals.

The movement for the freeing of industry and labor from the restrictions and privileges that characterized the guild system of the eighteenth century has followed a somewhat different course in the different Cantons. French Switzerland profited by the abolition of guild privileges and monopolies decreed by France in 1791. In the remainder of Switzerland the same result was only gradually accomplished. The political powers of the guilds were abolished early in the present century. Their economic functions, however, were in many cases allowed to remain, though the character of the guilds as close corporations, with restricted membership, was in all cases changed.

The requirement that all persons carrying on a handicraft trade on their own account or employing journeymen or apprentices should be members of a guild was generally in force until 1830, and was not wholly done away with at that time. The constitution of Schaffhausen, adopted in 1831, thus expressly provided for such obligatory membership. The tendency, however, was toward freedom. In 1832 Zurich and Saint Gall promulgated ordinances in which obligatory membership in a guild was limited to certain specially enumerated handicraft trades, and that of Saint Gall further limited this obligation by making it dependent upon the majority vote of the masters in the districts concerned. This decision, moreover, was not binding for more than four years. In the same year (1832) Thurgau repealed her obligatory guild ordinances. In the following year (1833) Zurich began the policy of relieving particular trades from the obligation of compulsory guild membership, which was continued until in 1837 all trades were free. Compulsory guilds were abolished by Lucerne and Soleure in 1834, and Basel Land in 1840. By 1860 guilds were free in Aargau. Compulsory guilds remained the longest in Basel Town. The constitution of 1847 of that Canton provided that guilds could not be made free by legislation, and compulsory guilds, therefore, remained until the adoption of the Federal constitution, in 1874.

For the most part the old guild ordinances were abolished without any laws being enacted to take their place, though there are some exceptions to this statement. All of these, however, and all vestiges of the guild system remaining were swept away by the first part of article 31 of the Federal constitution of 1874, which declared that "the

freedom of trade and industry throughout the whole extent of the Confederation is hereby guaranteed." The only exceptions permitted by the constitution were those relating to the State monopoly of the manufacture of salt and tobacco and those resulting from customs duties and certain other Federal taxes. Guilds and trade organizations so far as they remained were henceforth subject to the general law regarding obligations and duties of 1883.

RIGHT OF ASSOCIATION.

Full freedom of association is guaranteed all citizens of Switzerland by their constitution of 1874. Article 56 of this document reads: "The citizens shall have the right to form associations so far as they are not either in their purpose or methods illegal or dangerous to the State. The abuse of this right may be prevented by cantonal legislation." The Federal Government thus can not enact laws restricting the right of association for legal purposes. The right of the Cantons to regulate abuses of this right has been but seldom, if ever, exercised.

THE LABOR CONTRACT.

There is no Federal law specially regulating labor contracts. Such contracts are subject to the general law concerning contracts, except in so far as special provisions concerning this subject have been incorporated in the Federal factory law and the protective labor and other laws enacted by the individual Cantons.

APPRENTICESHIP.

With the abolition of the guilds went the old system of apprenticeship that was bound up with it. Modern efforts for the training of young artisans in Switzerland, as in other countries, have taken the form of the development of technical trade schools and to a certain extent the enactment of legislation to provide regulations to take the place of the guild regulations that were abolished. The Federal Government, in the absence of any provision in its constitution permitting it, has no power to enact special laws concerning apprentices. No mention of apprenticeship contracts is made in the general law of 1883 regarding contracts, though contracts of this kind might have been regulated as were other contracts by this law. It is necessary, therefore, to turn to the legislation of the individual Cantons in order to learn what laws regarding this subject have been enacted in Switzerland.

It is only within comparatively recent years that the Cantons have attempted to regulate the conditions of apprenticeship by law. The general laws enacted by the Cantons for the regulation of labor in a number of cases, as will be seen when those laws are considered, contain provisions regarding the apprenticeship contract. The first step

in the direction of the enactment of a special apprenticeship law was made by the Canton of Neufchâtel by a law passed November 21, 1890. Geneva followed in 1893, Freyburg in 1895, and Vaud in 1896. It is scarcely necessary to give a statement of the provisions of all of these laws, since they are similar in most respects. The following translations of the provisions of the first and the latest laws, those of Neufchâtel, November 21, 1890, and of Vaud, November 21, 1896, will show both the character of the legislation that has been enacted and the direction the movement for the legal regulation of apprenticeship in Switzerland is taking.

NEUFCHÂTEL.—Following is the law concerning the protection of apprentices passed by the Canton of Neufchâtel, November 21, 1890:

For the purpose of elevating apprenticeship and developing the professional value of workingmen in the various arts and trades practiced in the Canton, and especially in the various branches of watchmaking, on the report of the council of state and a special commission it is decreed as follows:

Supervision of apprenticeship.—1. Apprentices in each locality shall be under the supervision of the communal authorities. This supervision, according to the needs and importance of the localities, may be intrusted by the communal council to a special apprenticeship commission composed of an equal number of employers and employees possessing special qualifications for this duty.

2. In localities where there are councils of prudhommes these bodies must exercise, subject to the control of the communal authorities, the supervision of apprentices for which no special supervision shall have been organized by the unions (*syndicats*) of their trades, in conformity with article 3, that follows.

3. In places where employers and workingmen of the same trade have formed trade unions these bodies may, upon their request and the special decision of the council of state, be invested with the mission of supervising, under the control of the communal authorities, apprentices in their trades. Before undertaking this duty a union must prove that it represents at least a majority of the persons, employers, and workingmen interested, and each year must make a report to the communal council concerning the results of its supervision. This supervision must be exercised by a committee, half of whose members are elected by the employer's union and half by that of the employees.

4. If there exists only one union, either of employers or employees, to represent the interests of a trade it may nevertheless demand that the supervision of apprentices in its trade be intrusted to a committee composed of an equal number of employers and employees belonging to the trade, half of whose members are elected by the union, provided that it shows that it embraces among its members a majority of the persons interested. The communal council will elect the other half from among the class not represented by the union.

5. The delegates of the communal authorities, as well as those of the commissions charged with the supervision of apprentices, shall have the right to visit at any time the apprentices in the shops where they work and control the course of their apprenticeship.

6. Among other things, they must assure themselves that the apprenticeship instruction is not neglected, and that the employer either himself instructs or causes the apprentices to be otherwise instructed in a gradual and complete way in the profession, art, trade, or branch of trade which is the object of the apprenticeship contract.

7. If in the course of their supervision, or as the result of complaints, they discover acts of abuse, negligence, or bad treatment, they must intervene immediately for the protection of the apprentice, and at the same time notify his parents, guardian, or the commune which has control over him.

8. An employer is prohibited from employing an apprentice without the execution of a written contract setting forth the duration of the apprenticeship, the conditions as regards remuneration and, where necessary, as regards board and lodging, and the reciprocal obligations of the parties, which contract must be signed by the father, mother, or legal representative of the apprentice. This contract must be exhibited to the delegates charged with the supervision of apprentices whenever they request to see it.

9. The employer is likewise prohibited from employing an apprentice in work or services other than those relating to the exercise of his trade, except, however, in exceptional cases or as regards certain work or services sanctioned by usage and permitted by the authorities having the supervision of apprentices.

10. Each apprentice must be allowed during the work period such time as is necessary for the performance of his religious duties or the scholastic instruction required by law.

11. The normal hours of labor per day must not exceed 10 for apprentices from 13 to 15 years, and 11 hours for those more than 15 years of age, inclusive of the time devoted to scholastic and religious instruction. In general, no night work shall be imposed upon apprentices, nor shall they be required to perform any work in their trade on Sundays or holidays. By night work is meant work performed between the hours of 8 p. m. and 5 a. m.

12. Exceptions from the preceding restrictions may be permitted in the case of trades and industries which require night work, or which must be exercised on Sunday, but the council of state as well as the communal authorities and the supervisory commissions shall always have the right to require that these exceptions be specially authorized.

13. There shall be instituted by the council of state in the department of industry and agriculture a commission, in which must be represented as far as possible the various trade unions officially recognized, having as its duty the study of the improvements that can be introduced in the service for the protection and supervision of apprentices, and the means of continually increasing the value of apprenticeship and the technical training of workingmen. It shall also, upon the recommendation of the apprenticeship commissions and the trade unions, prepare the programme of apprenticeship examinations, as hereafter provided.

Examination of apprentices.—14. It shall be the joint duty of the department of industry and agriculture, the communal councils, and the apprenticeship commissions to organize examinations for the purpose of determining if the apprentices have acquired during their terms of apprenticeship the technical knowledge and professional aptitude necessary in order that they may exercise with intelligence and profit the trade they have chosen.

15. No person shall be permitted to take these examinations unless he is an apprentice in Neufchâtel or one of the other Swiss Cantons, is less than 25 years of age, and has prosecuted at least half of his apprenticeship with an employer resident in the Canton.

16. These examinations shall consist of inquiries concerning the theory of the technical elements which it is considered should be known by the apprentice, but chiefly of the execution of practical tasks, so that it may be possible to judge of his skill and knowledge in respect to the rules and practices of his trade.

17. Diplomas indicating the results of the examinations shall be given by the department of industry and agriculture to those apprentices who show a sufficient capacity for the practice of their profession.

18. There shall also be given to the apprentices whose examinations show the most favorable results prizes and recompenses consisting of deposits in the savings bank, books, or instruments or tools made use of in the trade which they intend to follow. Scholarships may also be accorded to those apprentices giving evidence of exceptional aptitude and desiring to further perfect themselves in the practice of their art or trade. The council of state shall fix the number and value of these scholarships, as well as the conditions under which they will be awarded.

19. Provision must be made each year for an appropriation of not less than 3,000 francs [$579] to be distributed in prizes to apprentices receiving diplomas.

20. The objects made and presented at the examinations by the apprentices receiving diplomas must, in general, be publicly exhibited, with mention of the name of the apprentice making each, the results of the examination, and the name of the employer.

21. Candidates for apprenticeship diplomas must register themselves at least 3 months before the termination of their apprenticeship either with the commission having charge of the supervision of apprentices in their districts or in their trades, or with the communal council.

22. The apprentice who fails upon an examination shall not again present himself for examination until at least 3 months have elapsed.

23. The examination of candidates for apprenticeship diplomas shall be by a jury of 3 members, of whom at least 2, one an employer and the other an employee, must belong to the trade followed by the apprentices. If the conditions of the examinations require it, this jury may be composed of 5 members, of whom at least 4, 2 employers and 2 employees, must belong to the trade. These juries are appointed by the apprenticeship commissions where there are such bodies, otherwise by the communal council.

24. All the provisions of this law apply equally to female apprentices.

Penalties.—25. Whoever is guilty of breaking article 8 of this law shall be punished by a fine of from 10 to 50 francs [$1.93 to $9.65]. Whoever breaks articles 9, 10, or 11 shall be punished by a fine of from 50 to 100 francs [$9.65 to $19.30].

26. The present law shall enter into force after having been approved by the referendum.

VAUD.—Following is the law concerning apprentices passed by the Canton of Vaud, November 21, 1896:

General regulations.—1. The present law relates to apprenticeship in industry, in the handicraft trades, and in commercial establishments.

Its provisions constitute public law, and can not be changed by private agreements.

2. In cases of doubt as to whether a person is subject to this law, the apprenticeship commissioner shall decide, from whose action an appeal may be taken to the department of commerce and agriculture.

3. All documents in reference to apprenticeship shall be free from stamp duties. Certificates, proofs, and forms shall be gratuitously provided. The forms may be procured from the communal chancellor and the clerk of the industrial courts.

4. It is unlawful to hinder an apprentice from fulfilling his duties or to induce him to leave his apprenticeship. Whoever, contrary to law, breaks an apprenticeship contract is liable for damages.

5. Whoever has been deprived of his civil rights by a judicial order may not have apprentices during the period of his punishment.

Apprenticeship contracts.—6. The conditions of each apprenticeship must be incorporated at its commencement in a written contract, for which the official form must be used.

7. Three copies of the contract must be made, one of which must be given to the clerk of the industrial court or the communal clerk, who shall transmit it to the apprenticeship commission, and the other two shall remain in the hands of the master and the apprentice or his legal representative.

8. The parents who apprentice their child become parties to the apprenticeship contract in respect to seeing that the apprentice fulfills his legal and contractual obligations.

Duties of the master.—9. It is the duty of the master to instruct the apprentice in a methodical and thorough way in the occupation or specialty to which the contract relates. He may on his own responsibility intrust this duty to a foreman or other competent workman. He is further obligated to see that the apprentice pursues his technical instruction, and to allow him the necessary time during working hours for this duty. He is prohibited from employing the apprentice in household or other work that does not relate to the trade he is learning.

10. The master must care for the apprentice, and may use paternal discipline if the apprentice is not under the direct supervision of his parents or legal representative. He must keep him at work and look after his development. He must inform his parents or legal representative if he is guilty of any serious misdeeds or shows evil tendencies. He must in like manner give notice if the apprentice becomes ill, or absents himself, or if any other event occurs that makes the intervention of the parents desirable.

11. The master is bound to treat his apprentice well, to give him no bad advice, nor set him any bad example, and to see that he receives no bad treatment on the part of the workingmen or others belonging to his family.

12. The master must care for the health and strength of the apprentice and see that he is protected from overexertion or dangers which are not peculiar to the trade. He must make him mindful of the dangers of the trade, and show him how they can be avoided. He must insure him against industrial accidents, and bear half the cost entailed by such insurance. Exceptions, however, may be made through order in the case of industries presenting no dangers, in which case the employer still remains liable.

13. The hours of labor of the apprentice, including the time necessary for religious, ordinary, and technical instruction, must not exceed 10 per day. As an exception the period may be extended to 11 hours upon the condition that the weekly period does not exceed 60 hours. An unbroken rest of at least 1½ hours must be allowed at noon. The apprentice must not work at night nor on Sundays. Work between the hours of 8 p. m. and 5 a. m. is considered as night work.

14. When the exceptional conditions of a business are such as to make it seem desirable, the administrative council may grant exemptions from the provisions of article 13. Where the conditions are such as to require it, the apprenticeship commission or its delegate may grant permission for a lengthening of the labor period, provided that the periods of rest are lengthened in a corresponding manner. This permission must be in writing, and must not be for more than a month nor be renewed more than 3 times in a year.

15. If the apprentice lives with his master, the latter must supply him with a clean living room, healthy food, and, in cases of temporary sickness, medical attendance, and, when no other agreement has been made, provide for such washing, lighting, and heating as may be necessary.

16. On the conclusion of the apprenticeship term the master must provide the apprentice with a certificate signed by himself, which shall contain only information concerning the trade of the apprentice and the length of his apprenticeship. If this certificate is not given by the master the apprenticeship commission may, at the request of the apprentice, provide one. The master is prohibited from dismissing the apprentice before the end of his term, except upon justifiable grounds.

Duties of apprentices.—17. The apprentice owes obedience and respect to his master. He must work with diligence and conscientiousness under his supervision and advice.

18. He must attend the trade instruction which is given in his locality or near by, so far as it relates to his trade. The apprenticeship commission shall decide concerning the extent of this obligation.

19. He is prohibited from revealing the trade secrets of his master, or from informing strangers concerning his knowledge or business.

20. He is also prohibited from absenting himself without permission except upon sufficient excuse.

21. He is likewise prohibited from quitting his apprenticeship before the end of the term except upon justifiable grounds.

Supervision of apprenticeship.—22. Apprenticeship matters shall be watched over by apprenticeship commissions created by the industrial courts. In those districts which have no industrial courts the apprenticeship commissions shall be created by the administrative authorities (*Regierung*). The apprenticeship commissions are under the supervision of the department of commerce and agriculture, which may delegate this duty partly or wholly to a special official.

23. The commissions or their delegates shall look after the exact observance of the law, the execution of the regulations, and the apprenticeship contracts. They must inform themselves as to whether the master instructs his apprentice in his trade or specialty in a complete and methodical manner. They must likewise see that the apprentice is not given work injurious to his health or beyond his strength. They may grant permission for the temporary extension of the work period (arts. 13 and 14). They must organize and oversee the apprenticeship examinations.

24. The commissions or their delegates must receive the complaints of the masters and apprentices or their legal representatives, and transmit them to the proper authorities. According to their judgment they must prepare regulations and make the rules necessary in relation to the matter of the breaking of apprenticeship contracts. They must inform the legal representatives of the apprentice whenever their intervention is necessary. They must furnish the apprenticeship certificate when the master fails to do so. They may, upon their own initiative or upon request, take an apprentice out of his apprenticeship if they are satisfied that the master does not possess the necessary technical knowledge, does not fulfill his duties toward the apprentice, or gives himself to drink, or upon other grounds.

25. A supervisory council in relation to apprenticeship shall be created in the department of commerce and agriculture, whose duty it shall be to study all means of improvement which the supervision of apprenticeship matters brings up, and the means by which the value of the apprenticeship system or the technical instruction of workingmen can be increased. It must organize and supervise the apprenticeship examinations in the Canton. For this purpose it must give the apprenticeship commissions the necessary instructions.

Apprenticeship examinations and conditions of apprenticeship.—26. Examinations shall be held under the supervision of the department of commerce and agriculture to determine if the apprentices have received or possess a satisfactory practical and theoretical knowledge. A special regulation shall determine the more exact conditions for the regulation of these examinations.

27. The department of commerce and agriculture shall give a diploma to each apprentice who, at the end of his apprenticeship, satisfactorily passes the examination. This diploma shall contain information concerning the result of the examination and the work and behavior of the apprentice during his term of apprenticeship. The results of the examination of the apprentices receiving diplomas shall be published, with their names and those of their masters.

28. Those apprentices who pass the examination with very good results may be given prizes, such as deposit books in savings banks, books, or instruments or tools which are necessary in their trade. Rewards may also be given to those who have instructed these apprentices.

29. Those apprentices who show special capacity in their examinations and desire to be still further instructed may be given stipends.

30. Upon the request or proposition of the communal council and the apprenticeship commission, the administration may make State contributions to (a) communes or associations that maintain courses for trade instruction; (b) industrial enterprises which take special care for the development of worthy apprentices; (c) those young persons who have the necessary capacity, but not the necessary means, to complete their apprenticeship term, with the coassistance of their native communes, and according to a tariff drawn up by the administrative council.

31. The communes must defray half the cost entailed by the examination of apprentices and the supervision of apprenticeship.

Civil disputes.—32. Disputes concerning apprenticeship shall be decided by the industrial courts, and when there are no such bodies, by the apprenticeship commission, from whose decision an appeal lies

to the supervisory apprenticeship commission when the matter in dispute exceeds 500 francs [$96.50]. The procedure is determined by the law of November 26, 1888, in relation to industrial courts, so far as its provisions apply in a direct or analogous manner.

Penalties.—33. Infractions of this law may be punished by the apprenticeship commission by fines not exceeding 200 francs [$38.60]. When the fine exceeds 50 francs [$9.65] an appeal may be made to the appellate court of the industrial court, and in the absence of such a court, to the supervisory apprenticeship commission.

The concluding sections of the act give certain provisions regarding the manner in which the law shall enter into force that are not of permanent interest, and therefore are not reproduced.

FACTORY LEGISLATION.

The history of factory legislation in Switzerland falls into two distinct periods, that prior and that subsequent to the enactment of a Federal factory act, in 1877. Before the adoption of the Federal constitution, in 1874, the power to enact laws in relation to labor was exclusively vested in the Cantons. A clause in this constitution permitted the enactment of a Federal law in respect to factory work, and in pursuance of it the law of 1877 above referred to was enacted. Before this law and the subsequent action of the Cantons are considered it is desirable to make a brief statement of the legislation of the period prior to the enactment of the law, in order that the changes introduced may be better appreciated.

The earliest laws for the protection of labor in Switzerland related exclusively to the domestic or household industries, and important examples of such regulations may be found, especially in Zurich and Basel, as far back as the end of the seventeenth century. The rise of the factory system in the nineteenth century was accompanied by most of the evils, such as long hours, employment of very young children, etc., that have characterized that system elsewhere. The only restraining laws at that time were those providing for obligatory school attendance. Particular Cantons, however, soon began the enactment of special laws for the restriction of the employment of children. Zurich enacted such a law November 7, 1815, and Thurgau on December 22 of the same year. These, however, were but isolated measures, and neither they nor other measures enacted by the Cantons prior to 1848 were of great efficiency.

In 1848 the Canton of Glarus passed a law which deserves special mention, as by it adult labor as well as that of children was for the first time subjected to regulation. The act was also in other respects an important law. The regulation concerning adult labor fixed the normal work day at 13 hours. In 1864 the maximum number of hours of labor per day that could be required of workingmen was reduced to 12, and in 1872 to 11. In the meantime other Cantons had followed

the lead of Glarus and had enacted laws, the purpose of most of which was the restriction of the employment of children. Such were the school law of December 20, 1850, and the factory law of August 20, 1873, of Schaffhausen; the law of August 18, 1853, concerning child labor, of Saint Gall; the ordinance of September 3, 1856, and the factory law of November 15, 1869, of Basel Town; the factory law of October 24, 1859, of Zurich; the factory law of May 16, 1862, of Aargau; the regulation concerning the manufacture of matches, of December 15, 1865, of Bern; the factory law of June 7, 1868, of Basel Land, and the ordinance of August 20, 1873, of Ticino.

It was inevitable that the result of this development of a system of labor regulations in the Cantons should lead to a demand for a general law. Those Cantons restricting the employment of children or adults claimed that they were placed at a disadvantage in respect to the Cantons without, or with less rigid, restrictions. The result of this agitation, and the labor movement, which at that time was of unusual strength, was the placing in the constitution of 1874 of article 34, which reads as follows:

The Confederation has the right to make uniform prescriptions concerning the labor of children in factories, concerning the duration of labor that may be required of adults, as well as concerning measures for the protection of workingmen against the exercise of unhealthy and dangerous industries.

There are two features of this article to which attention is particularly directed. In the first place, it will be seen that while this clause confers power upon the Federal Government to enact factory regulations of a certain character, it in no way restricts the right of the Cantons to enact laws of the same kind, provided that they are not in conflict with the Federal law. This freedom, as will be seen, has been taken advantage of by most of the important industrial Cantons, and laws have been enacted by them supplementing the Federal law or in regard to points not covered by it.

Secondly, it will be noted that the power of the Federal Government to regulate the employment of children, the hours of labor of adults, and the protection of employees is strictly limited to work in factories. All regulation of labor outside of factories thus belongs exclusively to the communes. (*a*)

FEDERAL LEGISLATION.

In pursuance of the power thus given to it the Federal Government immediately entered upon the elaboration of a general factory law, the enactment of which was secured March 23, 1877. It was submitted

a This statement, of course, does not apply to labor in establishments or enterprises conducted by the Federal Government, such as post-offices, State monopolies, and railways, which by a referendum vote taken in 1898 will become Federal property.

to, and approved by, a referendum vote October 21 of the same year. This law is still in force. The only modifications that have been made in it are those contained in the law of June 25, 1881, concerning employers' liability, which repeals section 5 of the factory act relating to this subject, with the exception of the clause reproduced below. The scope of the factory act has also been extended by the law of April 26, 1887, amending the employers' liability act of 1881, to the extent that the obligation of taking precautions against accidents and reporting accidents is extended to a large number of establishments not comprehended under that act. The definition of "factory," as used in the act, has also been made more comprehensive by administrative orders.

Constituting, as it does, the fundamental factory law of the Confederation, it is thought best to give the full translation of the law of March 23, 1877, concerning labor in factories:

1. Every industrial establishment in which a greater or less number of workingmen are employed simultaneously and regularly outside of their homes, and in an inclosed place, shall be considered as a factory and subject to the provisions of this law. When there is doubt as to whether an industrial establishment ought or ought not to be included in the category of factories the final decision shall rest with the Federal Council after it has taken the advice of the cantonal government.

2. In all establishments the workrooms, machines, and engines must be installed and maintained in such a way as to afford the greatest possible protection to the health and lives of the employees. Particular care must be taken that the workrooms are well lighted during working hours; that the atmosphere is as far as possible free from dust that may be engendered there, and that the air is renewed with a frequency proportionate to the number of employees, the means of illumination, and deleterious emanations that may be formed. Parts of machines and means of transmitting power that offer possible danger to the employees must be carefully fenced. In general, there must be taken, for the protection of the health of employees and the prevention of accidents, all measures which experience has shown to be desirable and which permit of the application of measures resulting from the progress of science as well as the maintenance of existing conditions.

3. Every person who wishes to establish or conduct a factory, or transform one already created, must give notice of his intention to the cantonal authorities and indicate the nature of the projected enterprise. He must also furnish the plan of construction and interior arrangement of his establishment in order that the authorities may satisfy themselves that the provisions of the present law are in all respects observed. No factory shall be opened or operated without the express authorization of the Government. If the nature of the industry is such as to offer exceptional dangers to the health or lives of the employees or of the neighboring population, the authorities may attach to its authorization such conditions as they deem desirable.

If during the operation of a factory it is seen that the health or lives of the employees or of the neighboring population are threatened, the authorities may order the abatement of the circumstances responsible for this condition of affairs and fix a time within which their order must

be executed. If the circumstances are such as to require it, the establishment may be closed. Differences that may arise between cantonal governments and proprietors of factories shall be settled by the Federal Council.

The Federal Council shall promulgate such general and special regulations as may be required for the application of the present article. Subject to the provisions of this law the laws of the Cantons regulating constructions remain in force.

4. It is the duty of the proprietor of every factory to immediately notify the competent local authority of all cases of accidents resulting in death or serious injury occurring in his establishment. The authorities must then proceed to hold an inquest to determine the causes and consequences of the accident and to give notice of it to the government of the Canton.

5. The Federal Council shall also designate those industries the exercise of which gives rise to serious maladies, in the case of which it may extend the responsibility of employers for accidents.

6. It is the duty of employers to keep a list of persons working in their establishments according to the form prepared by the Federal Council.

7. Employers must prepare regulations setting forth the organization of labor, the policing of the establishment, the conditions of entering and leaving the works, and the payment of wages. If the regulations provide for fines they must not exceed half a day's wages. Receipts from fines must be used for the benefit of the employees, and particularly for the support of the aid funds. Deductions from wages on account of imperfect work or the injury of raw materials are not considered as fines. Employers must also see that morality and good conduct is maintained in the shops where men and women are employed.

8. Factory regulations, or modifications of them, must be submitted to the cantonal governments for their approval, which may be refused if they contain provisions contrary to law. The workingmen must be allowed to express their opinions concerning provisions affecting them before the regulations are offered by the authorities.

The factory regulations once approved bind both the employer and his employees. Every infraction of them by the former comes under the provisions of article 19 of the present law.

If the application of the factory regulations gives rise to abuses, the cantonal government may order their revision. The factory regulations, indorsed by the approval of the cantonal government, must be printed in large type and posted in some place in the factory where they can be plainly seen. Each workingman must be furnished with a copy of them upon entering the establishment.

9. Unless there is a written contract to the contrary, the contract between an employer and workingman must not be terminated without at least 14 days' notice. Either party may take the initiative in terminating the contract on pay day or Saturday. Unless there are special difficulties in the way, an employee working by the piece must in all cases complete the work upon which he is engaged. The contract must not be terminated before the expiration of this time by the employer without the consent of the employee, except when the employee has shown that he is incapable of finishing the work commenced, or if he has been guilty of a grave violation of the factory

regulations. It must not be terminated by the employee except when the employer does not fulfill his obligations toward him, treats him in a manner contrary to law or the contract that binds him, or tolerates such action on the part of some other person.

Disputes that arise in the reciprocal termination or other points of the contract shall be decided by a competent judge.

10. Employers must pay their employees in the factory at least once every 15 days in cash, in legal tender. Special agreements between employers and employees and the factory regulations may provide for monthly payments.

The part of wages carried to the new account on pay day must not exceed the wages of the last week. In piecework the conditions of payment until the completion of the work may be fixed as the parties agree.

Deductions from wages for a special purpose must not be made except in accordance with a contract to that effect between the employer and the employee.

11. The normal duration of a day's labor must not exceed 11 hours, and on the day before Sunday and a holiday must not exceed 10 hours. This work period must fall between the hours of 5 a. m. and 8 p. m. during the months of June, July, and August, and between 6 a. m. and 8 p. m. during the remainder of the year.

The hours of labor must be regulated by a public clock, and notice must be given to the local authorities. In the case of an unhealthy industry, or where the conditions of operation or methods employed are of a nature to render a work period of 11 hours prejudicial to the health or lives of the employees, the normal duration of a day's labor may be reduced by the Federal Council, as may be necessary, until it is shown that the danger giving rise to the reduction no longer exists. Requests for permission to prolong this work period in an exceptional manner, or for a certain time, must be addressed to the authorities of the competent district, or, when there are none such, to the local authorities, in all cases where the prolongation of labor is for not more than 2 weeks. If the request is for a longer time it must be addressed to the cantonal government.

Workingmen must be given, during the middle of the work period, a rest of not less than one hour for their midday meal. Suitable places, heated in winter, and outside of the ordinary work rooms must be gratuitously furnished the employees who bring or have their meals brought to the establishment.

12. The provisions of article 11 do not apply to accessory work which precedes or follows the real work of manufacture, and which is executed by men or unmarried women over 18 years of age.

13. Night work may be permitted only in exceptional cases, and workingmen shall be so employed only when they freely consent to it. In all cases when it does not relate to an urgent repair necessitating exceptional night work during one night only, permission for night work must be obtained from the authorities. If the night work is for more than two weeks authorization must be obtained from the cantonal government.

Regular night work may be permitted in those branches of industry which need to be uninterruptedly prosecuted. Employers desiring to take advantage of this provision must show to the Federal Council that this industry requires that kind of work. At the same time they must

submit a regulation showing the division into work periods and the number of hours of labor required of each workingman; a number which must in no case exceed 11 in each 24 hours. The permission may be revoked at any time if circumstances change.

14. Sunday work is prohibited, except in cases of absolute necessity, in all factories except those which by their nature require to be continuously operated, and to which the necessary authorization, as provided for by article 13, has been accorded by the Federal Council. Even in establishments in this catagory each employee must be free from work every other Sunday.

The Cantons may, by legislation, fix other holidays, not exceeding 8 during the year, during which factory work shall be prohibited as on Sundays. Such days, however, shall only be declared obligatory for members of those religious bodies that observe these holidays. The employee who refuses to work on a religious holiday, not included in the 8 days above mentioned, shall not be fined for so doing.

15. Women must not be employed on Sundays or at night.

When they have a household to look after, they must be permitted to leave their work half an hour before the midday rest, if that period does not equal at least one and a half hours.

Women must not be permitted to work in factories during a total period of 8 weeks before and after their confinement. After confinement, they must not be again received in factories until they have furnished proof that 6 weeks have elapsed since that occurrence.

The Federal Council shall designate those industries in which women who are pregnant shall not be permitted to work.

Women must not be employed in cleaning engines in motion, means of transmitting power, or dangerous machinery.

16. Children under 14 years of age must not be employed in factories.

For children from 14 to 16 years of age, the time reserved for their scholastic and religious instructions, and that of their work in factories together, must not exceed 11 hours per day; and their scholastic and religious education must not be sacrificed by their employment in factories.

Young persons under 18 years of age must not be employed on Sundays or at night. In those industries, however, in which the Federal Council has, in virtue of article 13, recognized the necessity for uninterrupted work, the authorities may authorize the employment of boys from 14 to 18 years of age, if it is shown that it is indispensable to employ young persons, and especially if such employment appears to be in the interest of a good apprenticeship. In such cases the Federal Council shall fix for the young persons the duration of night work, which must be below the normal work period of 11 hours. It shall also order that they be employed alternately and successively, and, after having carefully examined the condition of affairs, it shall make its authorization subject to such guaranties and conditions as it deems necessary in the interest of the health of the young persons.

The Federal Council is authorized to designate those branches of industry in which the employment of children is absolutely prohibited.

The employer shall not allege as an excuse his ignorance of the age of his employees or the instruction that they ought to receive.

17. The execution of the present law, which applies equally to existing factories and those that may be erected in the future, as well as the application of measures and orders emanating from the Federal Coun-

cil in conformity with the present law, belongs to the cantonal authority, which for this purpose may take such action as it judges proper.

The cantonal governments must furnish the Federal Council with statements of the factories existing in their districts, as well as those that may be established in the future. They must also furnish, according to the regulations to be made by the Federal Council, statistical material concerning the different points covered by the law. At the end of each year the governments must make detailed reports concerning their action from the point of view of the execution of the present law their experience in this respect, the effect of the law, etc.

The Federal Council shall make further orders concerning the mode of procedure in this matter.

The cantonal governments must, at the same time, furnish the Federal Council, the department designated by it, or competent officials all information that may be demanded of them.

18. The Federal Council shall exercise a control over the execution of the present law. It shall designate for this purpose permanent inspectors, and determine their duties and attributes. It may, in addition, if it thinks it necessary, order the special inspection of particular industries or factories. It shall ask of the Federal Assembly the grant of funds necessary for this purpose.

19. Without affecting the matter of civil responsibility, every infraction of the provisions of this law or written orders of the competent authorities will be punished by the courts by a fine of from 5 to 500 francs [$0.97 to $96.50]. In case of a second offense, the court may, in addition to the fine, impose a penalty of imprisonment for not more than 3 months.

20. Provisions of cantonal laws and ordinances in contravention of the present law are abrogated.

The foregoing law, it will be observed, covers in an exceptionally complete way the points usually embraced in factory codes. The indefiniteness with which the term factory was defined by the law has permitted the administration to give to it a very comprehensive significance. The scope of the term as originally fixed by the Federal Council in 1878 was very materially enlarged by a decree issued June 3, 1891. According to this decree, which is still in force, the factory law is made to apply to the following classes of establishments: (1) All industrial establishments where more than 5 persons are employed and use is made of mechanical motors, or where persons under 18 years of age are employed, or which present unusual danger to the health or lives of the employees; (2) all industrial establishments employing 10 persons, whether they present any of the foregoing conditions or not; (3) all industrial establishments employing less than 6 persons, and presenting unusual danger to the health or lives of the employees, or those employing less than 11 employees and presenting plainly the type of factories.

In regard to the scheme of regulation provided, the law provides for the prevention of accidents, the protection of the health of employees, the keeping of registers, the preparation and posting of shop regula-

tions, the imposition of fines, the notice required in terminating the labor contract, the payment of wages, the hours of labor of adult males as well as women and children, and the conditions under which overtime, night, or Sunday work may be permitted. The law regarding all these points is stated with exceptional clearness, and nothing would be gained by attempting their restatement. Interesting features in the law to which attention might be specially directed are that the policy of regulating the labor of adult males is here provided for, not in exceptional cases merely, but generally, and that employers must not put in force their factory regulations until the employees to be affected by them have been given an opportunity to be heard.

The Federal law, in addition to its positive provisions, empowers the Federal Council to issue general instructions and special regulations regarding the measures to be taken for the protection of the health and lives of employees in factories wherever such action is deemed necessary. In pursuance of this authority the Federal Council has issued various decrees regarding conditions that must be observed in particular industries. On December 13, 1897, it promulgated a decree which is of especial importance, as it specifies in detail the conditions that must be observed in the erection or reconstruction of a factory and the measures that must be taken for the protection of the health and lives of the employees. The decree is as follows:

Whoever proposes to construct a factory in the meaning of article 1 of the Federal law concerning labor in factories, to reconstruct or enlarge existing industrial structures, or establish places to be rented as factories, must before beginning work submit the plans proposed to the cantonal government for its examination and approval.

Before its approval is given the cantonal government must send the plans and documents to the Federal inspector of the arrondissement for his opinion. The inspector must be informed of the decision of the cantonal government.

The cantonal government has the authority to grant certain exceptions to the provisions of article 6 when it believes the circumstances are such as to justify such action. When this is done the Federal inspector of factories must be informed, and he must immediately notify the cantonal government of any objections that he may desire to interpose. In case of a disagreement the Federal department of industry or the Federal Council shall decide.

Two copies of the following plans must accompany the application for a permit: (1) A plan showing the location of the projected building and its surroundings for a distance of 50 meters [164 feet] on a scale of $\frac{1}{500}$ to 1,000; (2) plans and designation of use of all work places (*locaux*); (3) plan of exterior; (4) plans showing the longitudinal and transverse sections, one of which at least must be by the stairways. The scale for the last three must be $\frac{1}{100}$.

The plans must be accompanied by documents showing: (1) The nature of the industry proposed; (2) where steam power is used, the installation of the boilers, the kind of system used, the heating surface, the capacity in cubic meters, the normal pressure in atmospheres,

and the position, height, and construction of the chimneys; (3) for motors of any kind, their method of construction and installation, notably the manner in which vapors and gases are given forth; (4) the elevators, the principal means of transmitting power, the location of machines, the passages between and beside these machines, the location of apparatus for heating and their connections, and the manner of lighting; (5) the dimensions of the windows and their distance from the ceiling, movable windows, and the possibility of a partial opening of interior and exterior windows; (6) the means of ventilation, and the maximum number of workingmen that will be employed in each place; (7) the water-closets or privies and the means of removing the deposits; (8) where necessary, the places provided as eating rooms, toilet rooms, for changing clothes, etc.

Where all this information can not be furnished with sufficient definiteness when the plans are filed it may be subsequently provided prior to the actual work of installation.

Cellars must not be made use of as places of work, except in exceptional cases, and upon the condition that they are sufficiently lighted and protected against dampness and flooding.

All workrooms must be at least 3 meters high [9.84 feet], and provide a free space of at least 10 cubic meters [353.14 cubic feet] per person employed. Rooms having a floor space of from 100 to 200 square meters [1,076.4 to 2,152.8 square feet] must be at least 3.5 meters [11.5 feet] high, and those of over 200 square meters [2,152.8 square feet] floor space at least 4 meters [13.12 feet] high.

Windows must be at least 1.8 meters [5.9 feet] high, and not more than 30 centimeters [11.8 inches] from the ceiling. They must be so arranged that in case of necessity the persons can escape by them. These provisions do not apply to sheds or unusual constructions.

Shops, stairways, corridors, privies, etc., must be provided with sufficient natural or artificial light. If gas or electricity is employed for this purpose, a sufficient number of safety lamps must be provided (*lampes de sûreté*).

Ventilation must be facilitated by appliances (*attiques*) that can be easily regulated, placed at all the windows unless other satisfactory appliances are provided. These *attiques* must have sides of sheet iron unless there is some special reason preventing it.

The pipes for heating must be placed as low as possible, and in such a manner that the employees do not suffer from the heat. They must be protected, as far as possible, from dust and be so that they can be easily cleaned.

Stairways which are not inclosed by solid walls must be provided with good handrails. In places where there is any danger of fire, and where inflammable material is manipulated by light, the stairways must be of stone or iron and inclosed by fireproof walls.

Every building that is 30 meters [98.4 feet] long must have at least two distinct stairways each with a special exit, and each building 3 or more stories high must have two stairways or a principal stairway and another means of escape. The principal stairway must be at least 1.2 meters [3.94 feet] broad.

Doors must be at least 1 square meter [10.76 square feet] in size and open outwardly. In places where inflammable or explosive materials are manipulated, both sides of the doors must be covered

with metal. Large sheds must be provided with exits proportionate in number to their size.

Elevator cages and other means of communication between stories must be so arranged that they can not facilitate the spread of flames or smoke. The large cages must be constructed of incombustible material and as far as possible inclosed on all sides. Elevators which are used for transporting persons must be furnished with appliances to prevent their falling, and their exits must be plainly indicated and provided with safety catches.

Galleries, passageways, platforms, etc., must be provided with protective railings and fencing to prevent the falling of objects.

Separate privies must be provided for the male and female employees in the proportion of at least one for each 25 persons. Those for male employees must be provided with urinals. They must be separated from the workroom by a space easily aired, and their doors must close automatically. The discharge pipes must never be of wood, and ventilation pipes opening above the roof must always be installed. Those which are connected with a general sewer system must be provided with a water flow. The deposit ditches must be water-tight and separate from all the walls of the building, and their openings by which the material is removed must be provided with means by which they can be hermetically closed. The ventilation pipes must be at least 20 centimeters [7.87 inches] in diameter and rise above the roof and highest skylight.

In places where fine or injurious powders or deleterious or obnoxious gases are generated precautions must be taken for their removal. Places must also be provided where employees can change their clothes and wash themselves, and when necessary special toilet and bathrooms must be furnished.

All gas, benzine, petroleum, and similar motors must be installed in rooms separated from the workroom by partitions which are as far as possible impermeable. Gasometers, gas purifiers, etc., must not be placed where there is any light or other burning substance.

Dryers heated directly by stoves must be installed in special buildings or separated from the principal building by a fireproof wall.

Warerooms for storing large quantities of easily inflammable materials must not be provided under the rooms unless they are surrounded with fireproof walls and ceilings.

The installation of steam boilers and nongenerative steam apparatus is regulated by the ordinance of October 16, 1897, concerning the establishment and operation of such apparatus.

All movable parts of machines must be inclosed and isolated in such a way as to prevent any dangerous contact with them. Similar precautions must be taken in the case of electric motors and conductors.

The means of transmitting power that can be reached by workingmen and which are not completely isolated must be placed at least 2 meters [6.56 feet] above the floor. The cables or gearing which traverse the roads, passages, courts, etc., must be properly guarded. They must not present any prominent collar (*clavette*) or screw head (*tête de vis*). Subterranean means of transmitting power must be so arranged that they can be easily inspected from overhead or by a canal or passage offering no difficulties or dangers.

In all workrooms means must be provided whereby machines can be rapidly thrown out of gear. When, by way of exception, these are

lacking, means of signaling to the motor-machine room must be provided. Separate means of throwing each machine out of gear must be provided.

Machines must be so installed that workingmen are not inconvenienced by them or exposed to danger. In any case the passageways between machines must be at least 80 centimeters [2.62 feet] and the principal passages 1 meter [3.28 feet] broad.

Eating rooms must always be provided when it is not shown that they can be properly dispensed with.

Good drinking water must be furnished for the use of the employees.

Hydrants, or at least reservoirs that can be used in case of fires, must be installed wherever possible.

All regulations of the Cantons in contravention to the present regulations are rendered void. Those extending its scope, however, are maintained in force.

The law also provided that the Federal Council could designate those branches of industry in which the employment of women who were pregnant and those in which the employment of children should be absolutely prohibited. In pursuance of this power the Federal Council issued a decree December 31, 1897, the essential provisions of which are summarized below.

The employment of women who are pregnant is prohibited in the following kinds of work: (1) Work in which there is an escape of phosphorus vapors, and the operations of mixing, dipping, removing from frames, and boxing in match factories; (2) the manipulation and mixing of lead, the manufacture of colors having a lead base, work of composition, varnishing, and glazing in foundries or workshops with materials having a lead base, and lead enamel work; (3) work done near pneumatic mercury pumps in the manufacture of incandescent lamps; (4) work done in rooms where there are fumes of sulphuric acid; bleaching of cotton and straw; (5) cleaning with benzine; (6) manufacture of caoutchouc articles; work in which there is an evaporation of sulphuret of carbon and sulpho-chloride; (7) work requiring the carrying of heavy burdens or exposure to violent shocks.

The employment of children from 14 to 16 years of age is prohibited in the following kinds of work: (1) Attending to boilers used for boiling under pressure; for work in connection with steam boilers the provisions of article 21 of the ordinance of October 16, 1897, regarding the establishment and operation of steam boilers and nongenerating steam apparatus must be complied with; (2) attending to motors of all kinds (water wheels, turbines, steam engines, and gas, petroleum, and benzine motors); (3) attending to dynamos and other electrical work in which high-tension currents are used; (4) attending cranes and drawbridges; (5) overseeing the transmission of power, putting belts in place on wheels or pulleys; (6) attending circular or band saws, planing, straightening, and mortising machines; (7) attending batting machines, calenders, shearing machines, as far as they are not

perfectly guarded, crushing machines, machines for cutting paper, bark, etc.; (8) work in connection with explosives; (9) the heating of easily inflammable materials (asphalt, tar, rosin, varnish, wax, etc.); (10) work in cement and gypsum factories where much dust is produced; work on emery wheels, trimming and cleaning castings; work near grinding machines in paper, glass, and emery factories; dry grinding of glass, stone, bone, or wood; hat polishing, rag sorting, hemp and flax combing and carding; silk waste cleaning; glazing and singeing, and all kinds of batting machines where, in the work enumerated, the dust is not sufficiently exhausted; (11) mordanting and shaping in hat factories; (12) all classes of work in the chemical industry where poisonous or noxious gases are generated; (13) tinning and galvanizing; (14) the manufacture of paints containing lead; glazing with coatings containing lead and lead enamel work.

These provisions do not apply to persons serving an apprenticeship of several years, regulated by contract, in occupations where such apprenticeships are customary.

In order to render more effective the provisions of the law regarding the prevention of accidents and the protection of the health of employees in establishments which are particularly unhealthy or dangerous, the Federal department of factory inspection has elaborated special instructions regarding such places, which are sent to the employers and employees and posted in the establishments. Instructions of this kind have been prepared for the industries of cigars and tobacco, August 10, 1896; lead and its compounds, August 13, 1897, and woodwork, October 21, 1897. Especial efforts have been made to subject the manufacture of phosphorus matches to special regulation for the purpose of lessening the danger to health resulting from the use of white phosphorus in that industry. The proposition to make the manufacture of matches a State monopoly was rejected by a referendum vote September 29, 1895. Immediately afterwards the inspectors of factories were directed to report upon the measures that should be taken to protect the health of employees in that industry. Following their report a proposition was framed and introduced in the Parliament, which ultimately became the law of November 2, 1898.

This law provides that all match factories, regardless of the number of employees or the importance of the establishment, are subject to the provisions of the Federal factory law; that the manufacture can only be carried on in buildings devoted exclusively to this industry; that the manufacture of matches can not be undertaken without the authorization of the cantonal government, given with the consent of the Federal Council, the latter prescribing the regulations for guarding the health and safety of the employees and of the public, and that in case of the refusal by the cantonal government of such authorization, recourse may be had to the Federal Council; that before an authoriza-

tion can be granted the detailed plans of the establishment and a statement of the proposed method of manufacture, packing, transportation, etc., must be submitted to the cantonal government and in turn transmitted by the latter to the Federal Council; that the manufacture, importation, exportation, and sale of white-phosphorus matches is prohibited; that the importation and use of white phosphorus is only permitted by special authorization of the Federal Council for scientific, pharmaceutic, or other purposes not dangerous to health; that the sale, importation, and exportation of matches is prohibited unless they are packed in boxes bearing the name or registered trade-mark of the factory, and that factory inspectors may at any time enter any places where they have reason to suspect that the manufacture of matches is being carried on. The law authorizes the Federal Council to acquire and communicate to manufacturers any new processes which commend themselves to their attention as regards the health and safety of employees and of the public.

Fines of from 50 to 1,000 francs ($9.65 to $193) are provided for the punishment of infractions of this law. In the case of the unauthorized manufacture of matches, besides the imposing of a fine, the entire property, stock, etc., may be confiscated, and in case of a second offense the guilty party may, in addition, be sentenced to not more than 3 months' imprisonment.

CANTONAL LEGISLATION.

The enactment of a Federal law concerning factories, as has been said, in no way limited the power of the Cantons to enact similar laws, provided their provisions were not in conflict with those of the Federal law. Advantage of this power has been taken by at least 7 of the more important industrial Cantons.

In considering this action on the part of the Cantons it is important to notice that its character has been largely molded by the fact that in Switzerland, as in almost no other country, the system of household industry and small shops has been able to maintain its position in spite of the development of the factory system. Notwithstanding the extension given to the factory law in 1891 to establishments employing 6 or more persons, and in some cases less than that number, a considerable number of working people were still outside of the scope of that law. It was chiefly to regulate the conditions of labor of this class that the Cantons have enacted their special labor laws.

The first Canton to take action in this direction was that of Basel Town, which enacted a law February 11, 1884, afterwards replaced by a law passed April 23, 1888, in relation to the employment of females in small shops, such as those for dressmaking and millinery work, which were not under the Federal law. This Canton also passed

a special law for the protection of females in restaurants and hotels December 19, 1887. The example of Basel was followed by the Canton of Glarus, which enacted a still more comprehensive law May 8, 1892. This law relates to all persons not included under the provisions of the Federal law who are employed for wages in industrial establishments, or are engaged as apprentices. On May 18, 1893, Saint Gall passed a law for the protection of females employed as saleswomen or waitresses in stores and restaurants. Zurich enacted a law June 18, 1894, in regard to the employment of females in small shops; Lucerne and Soleure laws November 9, 1895, and Neufchâtel a law May 19, 1896.

To a certain extent the provisions of these laws are similar. Their main purpose is in almost all cases to extend the provisions of the Federal factory law to classes of workers not comprehended under that law.

An excellent comparative statement of the scope and provisions of these laws was given by Mr. H. Wegmann, an official of the Federal factory-inspection service of Switzerland, in his report to the international congress in relation to labor legislation at Brussels in 1897. (*a*) It would be difficult to give a better summary of these laws than is there presented, and that portion of his report will therefore be reproduced in a somewhat condensed form. Following it will be given a translation of four of the more important laws—those of Basel Town, Glarus, Zurich, and Neufchâtel.

Of the 7 cantonal laws, that of Glarus alone relates to adult males; all the others concern working women only. The laws of Zurich, Soleure, and Neufchâtel formally protect females working alone if they work for wages or are occupied in a trade. The laws of Saint Gall and Basel do not go so far except in reference to working women under 18 years of age, the law only applying to women over that age in places where 2 (in the case of Saint Gall) and 3 (in the case of Basel) are employed. Examining these provisions carefully, it will be seen that they are more comprehensive than would at first appear. Thus, any person working at home with his own tools is regarded as an employee if he works directly or indirectly for a manufacturer. The law of Neufchâtel also says clearly that a person must work outside of his own home in order to profit by the law.

It is unnecessary to say that the Cantons have incorporated in their laws many of the provisions of the Federal law, but these have not always been servilely copied. On the contrary, in some cases the restrictions are made less severe and in others gaps in the Federal law have been filled. The law of Basel has the most points in common with the Federal law. The more recent laws show greater differences. Thus,

a See note *a*, page 136.

that of Neufchâtel permits the employment of children 13 years of age in certain cases. Six Cantons (Neufchâtel by a special law) require the making of a formal contract where apprentices are taken. Zurich and Soleure make the first 2 weeks of such a service a period of probation during which either of the parties can break the contract upon giving 3 days' notice.

In general there are always provisions requiring workrooms to be spacious, dry, well lighted and heated, though the requirement that machines should be properly guarded does not always appear.

The provisions regarding hours of labor are naturally the most important of the laws. Five Cantons accept the normal workday of 11 hours, fixed by the Federal law. Zurich, however, has made 10 hours the maximum work period per day for females, and on the day preceding Sundays and holidays 9 hours, with a rest at noon of 1½ hours in all cases. Neufchâtel has made the work period of girls under 15 years of age 10 hours per day, and of girls over that age 11 hours, with the exception of Saturday, which is limited to 10 hours.

Sunday labor is prohibited without exception.

Night work, that is, after 8 p. m., is also in general prohibited. This is the hour at which night work begins according to the Federal law, which is in no case permitted to female employees. As regards this point all of the cantonal laws differ from the Federal law, as they permit work by women until 9, 10, and 11 p. m. when the permission of the authorities has been obtained. Most of the cantonal laws fix the maximum amount of such overtime work that can be permitted at 2 hours per day and a certain maximum per year, 75 hours in the case of Zurich, 2 months for Glarus, and 3 months for Saint Gall and Lucerne. In Zurich and Lucerne permission is only granted for certain specific reasons as mentioned in the law, and in Soleure and Neufchâtel for "serious" reasons. In general the authorization must be in writing and posted in the shop or place of work, and no person can be required against his will to work overtime. With the exception of Glarus, overtime work must be paid for at a higher rate; in Zurich, Lucerne, and Soleure one-fourth more. These 3 Cantons also prohibit the giving of work to working women to be done at home after they have worked the normal workday.

The Cantons of Basel and Glarus have adopted the Federal regulation that women must not be allowed to work during the period of 8 weeks preceding and following childbirth. Saint Gall and Lucerne extend this prohibition to 6 weeks, Zurich and Soleure to 4 weeks following childbirth, and Neufchâtel makes no mention of the subject in its law. In a number of Cantons overtime work by females who are pregnant is prohibited.

Shop regulations are in general required only when the authorities deem the importance of the nature of the industry such as to justify

it. In Zurich and Lucerne copies of the laws must be posted in the places of work.

Most of the laws contain provisions regarding the payment of wages. Zurich and Lucerne stipulate that a reduction in wages must be announced 15 days in advance. Deductions from wages of any kind are prohibited by the law of Neufchâtel. Three Cantons make no mention of such retention of wages, while 3 provide that not more than one-half a week's wages can be retained if a previous arrangement to that effect has been made. Fines for the purpose of maintaining discipline, not in excess of from one-fourth to one-half a day's wages, are permitted, provided they are mentioned in the regulations agreed to by the employees.

A peculiarity that should be noted is that the laws of Zurich and Saint Gall intrust the control of food and lodging supplied to working women to the Government authorities.

The laws of Glarus, Saint Gall, Lucerne, Soleure, and Neufchâtel contain special paragraphs for the protection of females employed in places where liquor is sold. Zurich, February 3, 1896, promulgated a special law for this purpose. All of these laws, with the exception of that of Glarus, prohibit the regular employment as waitresses of girls under 18 years of age who are not members of the proprietor's family. In the case of Zurich this prohibition extends to girls who have not completed their twentieth year and boys under 16 years of age. Persons below these ages can be employed in other work during 8 hours per day, provided such employment does not extend after 9 p. m.

Glarus and Neufchâtel require 9 hours and the other Cantons 8 hours uninterrupted rest for employees. Lucerne prescribes at least 2 hours absolute rest on Sunday mornings. The provisions of the different laws concerning the substitution of some other day for Sunday as a day of rest are very dissimilar. Saint Gall, Lucerne, and Soleure require one-half day of freedom for employees each week; Neufchâtel prescribes 2 forenoons and 2 afternoons of freedom per month, and Zurich requires that 6 hours' continuous freedom between the hours of 8 a. m. and 8 p. m. be granted every week. These, however, may be replaced by 2 annual leaves of not less than 4 days each.

Other provisions regarding females employed in hotels and restaurants relate to the lodging and food that must be furnished them, the provision of separate beds for the employees, etc.

Provisions for the protection of females employed in stores are found in the laws of Glarus, Saint Gall, Lucerne, Soleure, and Neufchâtel. Their principal purpose is to insure that the women are allowed sufficient time, 8 or 10 hours, at night for rest and sleep. When Sunday work is permitted the Cantons of Lucerne and Soleure require a half day's freedom on that day, and that of Saint Gall a similar cessation from work during the week.

The law of Neufchâtel is the only one which contains provisions regarding the employment of females in office. For them it prescribes at least 9 hours cessation of work at night.

BASEL TOWN.—Following is the law concerning the employment of women, passed by the Canton of Basel Town April 23, 1888:

1. All industrial establishments in which 3 or more women or girls under 18 years of age are employed or serve as apprentices are subject to the provisions of the present act. Hotels (*Wirthschaften*) and stores are exempted so far as their female employees serve only as saleswomen and are not employed in industrial work.

2. The hours of labor of women employed in establishments coming under this act must not exceed 11 per day, and on the days before Sundays and holidays 10 hours per day. This labor period must fall between 6 a. m. and 8 p. m., and must be divided by a rest of at least 1 hour. Labor on Sundays is prohibited.

In exceptional cases the department of the interior may permit an extension of the work period to 11 p. m. If the overtime work is for more than 2 weeks the permission of the administrative council (*Regierungsrat*) must be obtained, and also if the permissions given during a period of 2 months amount to more than 3 weeks. In no case does the authorization of overtime work apply to girls under 18 years of age. These must never be employed in any kind of work after 8 p. m.

Women must not be employed during a total period of 8 weeks before and after giving birth to a child, and they must not be permitted to return to work until they have furnished proof that 6 weeks have elapsed since that event.

Women must only be employed in the evenings aftertime when they freely consent to work overtime and receive extra pay for such work.

3. Where it is not otherwise agreed in writing the agreement between employers and working women must not be changed by either party without giving at least 14 days' notice, starting from a pay day or Saturday. Within this period the relations between them may only be changed upon very important grounds, concerning which the judge will decide.

4. Fines shall only be imposed as provided for in the shop regulations, and they must not exceed one-half the day's wages of the person fined, and must be employed for the benefit of the working women. Reductions from wages on account of imperfect work are permitted if the injury is intentional or the result of gross carelessness.

5. The places in which women work are under the supervision of the sanitary authorities as regards their hygienic conditions.

6. When the scope or nature of a business is such as to justify such action, the factory commission may require an employer of an establishment comprehended under the act to prepare, and post in a conspicuous place, shop regulations setting forth the working periods, the conditions of entering and leaving, and the payment of wages. These regulations must be submitted to the department of the interior for approval. In case of dispute the administrative council shall decide.

7. Infractions of the provisions of this law shall be punished according to section 37 of the police law.

8. The administrative council is authorized to make such regulations as may be necessary for carrying out this law.

9. The enforcement of the law and the drawing up of the necessary regulations belong to the department of the interior and the factory commission.

10. The law of February 11, 1884, in relation to the hours of labor of working women is repealed.

ZURICH.—Following are the provisions of the law concerning working women, passed by the Canton of Zurich June 18, 1894:

General provisions.—1. The present law relates to all establishments not comprehended under the Federal factory law, in which women are employed for wages or for the purpose of learning the trade. There are excepted, however, agricultural undertakings, offices, hotel-keeping business (*Wirthschaftsgewerbe*), and commercial establishments as far as concerns those young persons who are exclusively engaged as saleswomen. In case of doubt as to whether an establishment is included under the law, the department of the interior shall decide.

2. Proprietors must inform the department of the interior of the existence of their establishments. Everyone has the right to propose to the department of the interior or the communal council the inclusion of a business under the law.

3. The department of the interior and the communal council shall prepare lists of establishments coming under this law. These authorities must inform each other of any changes. The communal council must inform the local health authorities of every place registered.

4. Girls under 14 years of age must not be employed as workers or apprentices.

5. Women must not be employed within 4 weeks after their confinement, and they have the right to remain away for 6 weeks.

6. Work on Sundays and holidays is prohibited.

Hours of labor.—7. The hours of labor must not exceed 10 per day, and on the days before Sundays and holidays not more than 9 hours, and must fall within the hours from 6 a. m. to 8 p. m. At least 1½ hours must be allowed in the middle of the day as a rest period. It is prohibited to give to women work to be performed at home that will make their hours of labor exceed the legal limit. Hours of labor must be regulated by a public clock.

8. Only that time shall be reckoned as periods of rest during which the women may leave the workrooms. The time required for girls under 18 years of age to perform their obligatory educational duties is included in their work period.

9. The work period may be extended in an exceptional and temporary manner upon the following grounds: Labor loss on account of the disturbance of the industry; accumulation of work in the season; orders resulting from events that could not be foreseen; the avoidance of great damages; threatened loss of materials; the prevention of nonemployment elsewhere.

10. The work period must not be lengthened more than 2 hours per day nor on more than 75 days in a year. Overtime work must as far as possible be before 8 p. m. and never after 9 p. m.

11. The rate of pay for overtime work must be at least one-fourth higher than the ordinary rate.

12. Overtime work is only permitted in the case of women over 18 years of age and then only when they freely consent.

13. The proprietor must receive permission for overtime work upon

stating the grounds for it. If the permission is for not more than 6 days, it must be sought of the communal council; if for a longer time, from the department of the interior.

14. Each permission for overtime work must be in writing and be posted in the workroom. The communal authorities and the department of the interior must inform each other of all permissions granted.

15. The administrative council is authorized to permit deviations from the labor period, provided the object of the present law is never violated in the case of those industries which are prosecuted under unusual conditions in respect to their methods of work or receipt of orders. This permission may be changed or withdrawn when the special circumstances no longer exist. If an establishment misuses the permission, the latter may be canceled.

Workrooms.—16. The workrooms must, in proportion to the number of persons there employed, be sufficiently large, light, dry, heated, and ventilated, and so arranged that the health of the working women will not be injured. All precautionary measures, as suggested by experience and in proportion to the state of the art, must be taken to prevent bodily accidents and other injuries to the health.

17. The local health authorities must see that these provisions are obeyed, and report annually to the general sanitary authorities concerning their action in this respect.

Labor and apprenticeship contracts—Shop regulations.—18. The first two weeks of employment will be considered as a probationary period, in the sense that during this period either party may sever the labor contract upon giving not less than 3 days' notice. After this time not less than 14 days' notice must be given, starting from pay day or Saturday. In the case of piecework, the notice must start from the completion of the work that has been begun, provided that the ordinary period of notice is not thereby lengthened or shortened more than 4 days. This length of notice may be lengthened or shortened by the shop regulations or special agreement, provided that the same length of notice is required by both parties.

19. The labor contract may be terminated upon justifiable grounds (*aus wichtigen Gründen*) before the time agreed upon. Concerning the justifiableness of these grounds, the judge will decide according to his judgment. If the rupture of the contract results from the violation of his contract obligations by one party, he must fully indemnify the other. Moreover, the economic consequences of a labor contract terminated before the expiration of the time agreed upon shall be determined by the judge according to his judgment in taking account of the circumstances and local customs.

20. Every working woman is entitled upon leaving to receive, if she desires it, a certificate setting forth the nature and duration of her employment.

21. Whoever desires to take a girl as an apprentice must make a written contract for that purpose with her and her father or representative. This contract must contain the obligation that the apprentice shall be properly instructed in her trade. The duration of the probationary and apprenticeship periods as well as the payment of the proper apprenticeship fee when there is such must also be specified; also the grounds and conditions upon which the contract may be terminated by one party before the termination of the period agreed upon.

22. Shop regulations concerning the labor periods, the conditions of

entering and leaving, as well as the payment of wages, must receive the approval of the department of the interior, and must be posted in workrooms in a conspicuous place. The department of the interior is authorized to draw up shop regulations where the scope or nature of a business seems to justify it. It may also order the revision of shop regulations where their application would give rise to bad conditions.

23. Fines must not be imposed except as provided for in the shop regulations, nor in excess of one-fourth of the daily wages of the person fined. A statement of the fines imposed must be prepared in which is entered the name of the person fined, the act of omission or commission for which the fine is levied, and the use made of the fine. All fines must be employed for the benefit of the working women.

24. Whoever violates the law, shop regulations, or special agreements must indemnify the other party (*Art. 110 u. ff. des Obligationsrechtes*). The competent judge shall fix the amount of the indemnity according to his judgment in view of the circumstances of the case.

Regulation of wages.—25. Wages must be paid in coin of the country, on a workday, and in the place of business. Where monthly or yearly salaries have not been agreed upon in writing, payment must be made at least every 14 days. Deductions from wages for rent, cleaning, heating, and lighting of the establishment, or for the rent or use of tools, are prohibited. Work material must not be charged for at a rate higher than its cost to the proprietors.

26. Wages may be retained to the extent of one-half the average weekly wages when such retention has been mutually agreed upon. In the same manner deductions may be made from wages for insurance purposes when mutually agreed upon.

27. The working woman must be informed of any reduction in wages in such a way that it will be possible for her to leave before the reduction goes into force.

28. Where the employer furnishes board and lodging it must be reckoned at the cheapest rate. The local health authorities must see that proper and healthy food and lodging are provided. Where the conditions are openly bad they may recommend to the department of the interior that the proprietor be prohibited from furnishing food and lodging to girl apprentices or working women.

Fines and executive provisions.—29. The proprietor is responsible for the observance of the provisions of this law in his establishment.

30. Infractions of sections 2 to 17, 20 to 23, and 25 to 28 by the proprietor can be punished by the city officials (*Stadthalteramt*) by fines of from 5 to 200 francs [$0.97 to $38.60].

31. Anyone may bring to the attention of the city officials and department of the interior infractions of this law.

32. In the case where a person disobeys the order that has been given him penalties may be imposed, and in case of continued disobedience the offender may be turned over to the criminal authorities (section 80, criminal code).

33. The execution of this law belongs to the department of the interior. An appeal from its orders may be made to the administrative council.

34. The communal councils are intrusted with the duty of seeing that the provisions of this law are observed in industrial establishments so far as this has not been given to the local health authorities by sections 17 and 28. They may delegate this duty wholly or partly to a special officer.

35. Copies of this law may be obtained gratuitously from the communal councils, and in placard form must be posted in each establishment in a conspicuous place.

36. This law goes into force January 1, 1895.

NEUFCHÂTEL.—On May 19, 1896, a law concerning working women was passed by the Canton of Neufchâtel. The provisions of this law are as follows:

1. All establishments and workshops in which one or more women are employed, and which are not subject to the Federal law concerning factories, are subject to the conditions imposed by articles 3 to 16 and article 22 of the present law.

2. All stores, shops, countinghouses, as well as hotels, inns, clubs, restaurants, and drinking saloons in which are employed one or more women are subject to the conditions imposed by articles 19 to 22 of the present law.

3. The present law does not apply to domestic workshops in which only members of a family are employed under the authority of the father or mother, or to agricultural enterprises, dwelling houses in which women are employed as domestic servants, or day laborers performing household duties.

4. The execution of this law is intrusted to the communal authorities, which, according to the needs and importance of the place, may confide the oversight of its application to a special officer. The cantonal inspectors of apprentices are charged, concurrently with the communal authorities, with the supervision of the general and uniform application of the law.

5. If the communes find it necessary to incur new expenditures in inforcing this law they shall have the right, according to the importance of the expenditure, to an equitable reimbursement, provision for which will be made by a credit, the amount of which will be determined each year by the State budget.

6. Young girls under 14 years of age must not be employed in establishments enumerated in section 1. However, those provided with a certificate of primary instruction instituted by the law relating to primary education may be employed after they are 13 years of age.

7. In extension of the rule applicable to apprenticed children, and provided for by article 11 of the law concerning the protection of apprentices, young girls under 15 years of age must not be employed in effective labor for more than 10 hours per day.

8. The hours of effective labor of women and girls over 15 years of age must not exceed 11 per day. On Saturdays, and the days before holidays, they must not exceed 10 hours, including the time worked in cleaning and arranging the shop. At least an hour must be allowed in the middle of the day for the principal meal.

9. Time which should be devoted to scholastic or religious instruction is always included in the hours of labor.

10. Work at night and on Sundays and holidays is prohibited. Work between the hours of 8 p. m. and 6 a. m. is considered night work.

11. However, for work recognized as urgent, and in certain special industries, this prohibition may be temporarily abrogated, and the communal authorities or their delegate may authorize at certain periods of the year extra hours of labor. This overtime work must not exceed

2 hours per day, and the number of days must not exceed a total of 50 per year.

12. Requests to work overtime must be addressed to the communal authorities or their delegate. The authorizations must be in writing, and inscribed in a special register by the communal authorities or their delegates. An appeal from the decisions of the communal authorities or their delegates may be made to the department of the interior.

13. The communal authorities or their delegate must see that places in which women are employed are always in a satisfactory state as regards cleanliness, lighting, and ventilation, and prescribe such measures and precautions as may be necessary. In factories and workshops which make use of mechanical apparatus and machinery, they must also prescribe such appliances and measures as are necessary for the security of the working women.

14. The council of state may prohibit the employment of women in those kinds of work that exceed their strength or expose their health or morality to danger.

15. Employers are particularly required to look after the observance of decency and the maintenance of good conduct in their establishments.

16. If shop regulations are in existence, they shall in no case provide for fines. The regulations must always be posted so that they can be easily seen in the workshop.

17. Employers are required to pay their working women at least fortnightly in cash, in legal-tender money. This provision shall not be set aside by a private agreement. In general, payment must be made on Saturday before noon. In the case of piecework, the conditions of payment until the completion of the work may be fixed by the parties. The retention of any part of the wages is prohibited.

18. There must be prepared each year, by means of a census, a statement in each commune of all establishments and shops subject to the provisions of the present law.

19. In stores and countinghouses where women are employed the hours of labor which are required of them must be divided by periods of rest, and they must always be given at least 9 hours uninterrupted rest at night.

20. In public establishments, hotels, inns, clubs, restaurants, and drinking places, the hours of labor of women there employed must be divided by periods of repose, and they must be given at least 9 hours uninterrupted rest at night. The communal authorities or their delegates may, in exceptional cases, authorize the abrogation of this rule. Girls under 18 years of age, other than the daughters of the proprietor of the establishment, shall not be allowed to serve the public. In no case shall the proprietor allege his ignorance of their ages as an excuse.

21. Women who are required to work at hotels, inns, clubs, restaurants, and drinking places on Sundays must be allowed on the four Sundays of the month two mornings and two afternoons leave.

22. Every person breaking any of the provisions of the present law or regulations or decrees that may be promulgated to insure its execution shall be punished by a fine of from 5 to 20 francs [$0.97 to $3.86]. The fine shall be imposed as many times as there are persons employed under conditions contrary to law, provided the total does

not exceed 500 francs [$96.50]. In the case of a subsequent offense the fine may be doubled.

23. The council of state is directed to proceed to the formalities of the referendum with the view of insuring the eventual execution of the present law.

GLARUS.—Following is a law in relation to the protection of labor, passed by the Canton of Glarus May 8, 1892:

1. This law applies to all establishments regularly employing persons at industrial occupations for wages or as apprentices, which are not within the scope of the Federal factories act. It does not apply to agricultural occupations. The work of waiters in restaurants and sales people in stores, who are employed in waiting on customers and not engaged in industrial work, is considered in sections 11 to 14 of this law. Where there is a doubt whether an establishment comes within the scope of the present law, the decision lies with the military and police authorities, provided that an appeal may be made to the administrative council (*Regierungsrat*).

2. The working rooms must be well lighted and ventilated, dry, and, in general, in such a condition that the health of the persons working in them is not impaired. The machinery and other working appliances must be erected and maintained in the safest manner possible, and any injurious effects arising from the operations must be avoided as much as possible. The administrative council is authorized to make binding regulations from time to time in regard to this matter.

3. If the extent and nature of a business justify it, the proprietors of establishments coming within the scope of this law may be required to post in a conspicuous place in the workrooms regulations regarding the hours of labor, conditions of entry and exit, the payment of wages, etc. The approval of these regulations, as well as the settlement of all matters of this character, comes within the powers of the administrative council.

4. Unless otherwise agreed upon in writing, a notice of 14 days must be given by either party for a dissolution of the labor contract, and this only on a pay day or Saturday. A dissolution of the contract on shorter notice is only permitted for important reasons.

5. Written apprenticeship contracts must be made in all cases where apprentices are employed. This contract must show at least the trade, the term of apprenticeship, the fee, and the conditions under which a dissolution of the contract by one of the parties is permissible.

6. Wages must be paid at least once in 14 days in cash and in lawful money. Longer terms are permitted by mutual consent.

Fines shall only be levied if they are provided for in the regulations approved by the administrative council; they must not exceed one-half the day's wages of the person fined, and must be applied in the interest of the working people. Deductions from wages for goods spoiled shall only be made if the damage was intentional or was due to negligence.

7. The regular hours of daily labor must not exceed 11, and on days preceding Sundays and holidays 10 hours. At least an hour's intermission must be allowed at noon. Sunday and holiday labor is prohibited.

A temporary extension of the working-day until not later than 10 p. m. may be permitted by the communal councils, but only in cases

of absolute necessity and in exceptional cases, and without periodical repetition. For extensions continuing over a longer period than 14 days the permission of the administrative council is necessary. The total duration must not exceed 2 months in any year. Persons must not be employed overtime without their consent.

The exceptions permitting overtime do not apply to persons under 18 years of age. The latter must in no case be employed after 8 p. m.

8. The provisions regarding hours of labor do not apply to work which, on account of its peculiar nature, must be either begun before or finished after the normal working time, or which must immediately precede or follow the regular work of the establishment, provided that in every case such work is performed by persons over 18 years of age. In cases of doubt the administrative council shall decide, and, if necessary, after the hearing of the testimony of experts, whether the provisions of this paragraph should be applied in any particular case.

9. Women who have household duties to perform must be excused a half hour before the noon intermission unless the latter is at least 1½ hours long.

Women must not be employed for a period of 8 weeks before and after childbirth in any of the industries covered by this law. They must, when they return to work, show a certificate that at least 6 weeks have elapsed since their confinement.

10. Children who have not exceeded the age of 14 years must not be employed in industrial occupations either for wages or as apprentices.

11. Employees in stores or establishments dealing with customers may be employed as salesmen or saleswomen without further restriction than that they must be permitted an uninterrupted rest of 9 hours during the night.

12. Persons employed in serving guests in saloons, restaurants, or hotels may be employed as long as the police regulations permit the establishment to be open. In all cases, however, an uninterrupted rest of 9 hours at night must be allowed these employees.

13. The enforcement of this law is in the hands of the administrative council. An exact record must be made, with the assistance of the communal councils, of all establishments which come within the scope of this law. The administrative council is authorized, when necessary, to have periodical inspections made by experts. Officials charged with the execution of this law must, when requested, be given access to the establishments at any time.

14. Violations of the present law are punishable by a fine of from 10 to 500 francs [$1.93 to $96.50]. A repetition of an offense or a serious violation of the law may be punished by imprisonment not exceeding 14 days.

15. The cantonal council is charged with the enactment of the necessary regulations for carrying out the provisions of this act.

ARBITRATION TRIBUNALS.

The enactment of laws concerning the arbitration or conciliation of industrial disputes falls exclusively within the province of the Cantons. In only 4 has special legislation been enacted for the creation of industrial arbitration tribunals. In 2 of these, Geneva and Neufchâtel, provision has been made for councils of prudhommes after the French

model, while in the other two, Basel Town and Bern, arbitration tribunals of a somewhat different character have been created.

GENEVA.—This was the first Canton to take action in this direction. The creation of councils of prudhommes was provided for by a law passed October 3, 1883. This law referred only to disputes arising in industry and commerce, but its scope was extended in 1889 so that the councils now take cognizance of "disputes which arise between employers and employees, masters and workmen, masters and apprentices, employers and domestic servants, in all matters relating to the payment of wages, concerning the performance of work, and the apprenticeship contract." The composition and functions of these councils are as follows:

Each council consists of 30 members, 15 of whom must be employers and 15 workingmen. As far as possible they must represent the different branches of industry over which the council has jurisdiction. The employers and employees elect their representatives separately and by groups of industries. Only persons of Swiss nationality and in the possession of full political rights can vote or be elected to the council. Managers and directors of companies are regarded as employers. Members are elected for 2 years, but are reeligible. The method of voting is that by list (*scrutin de liste*). In general, the first Sunday in October is election day. When the membership of a council becomes reduced by a fifth part in consequence of deaths, resignations, or other causes, special elections must be held, provided ordinary elections will not be held within 6 months. A member becomes ineligible to perform the duties of his office if he ceases to follow his calling for one year, if he changes from employer to employee, or vice versa, and when he becomes insolvent.

There are 2 main classes of councils—those for manufacturing and commercial establishments, and those for agricultural affairs and private individuals. Each council elects by ballot a governing board, consisting of a president, vice-president, secretary, and vice-secretary. When the president or secretary is an employer the vice-president or vice-secretary must be an employee, or vice versa. The offices of president and secretary must be filled alternately by employers and employees.

For the transaction of business each council is divided into 4 bodies or sections: (1) Board of conciliation (*bureau de conciliation*), (2) tribunal proper (*tribunal de prud'hommes*), (3) chamber of appeals (*chambre d'appel*), and (4) a committee for supervising apprentices and looking after the sanitary arrangement of workshops. In order to avoid friction and to maintain the independence of the members, it is provided that an employer and his employee shall in no case serve upon the same section.

The board of conciliation is composed of an employer and an

employee, who preside in turn. Disputes are first brought before this body and the conciliation of the parties attempted. When this fails the board may act as a court of summary jurisdiction and pronounce final judgment in cases involving sums not exceeding 20 francs ($3.86). When conciliation fails, or the sum involved exceeds 20 francs ($3.86), the matter is brought before the second division of the council or tribunal proper. This body is composed of a president, 3 employers, and 3 employees. Witnesses may be heard on both sides and experts may be called in when necessary. Final decision is given in cases involving sums not exceeding 500 francs ($96.50). In disputes involving a larger sum the case may be carried to the chamber of appeals within the next 5 days. This body is composed of a president, a secretary, 5 employers, and 5 employees, none of whom shall be persons who have taken part in the prior proceedings.

Provision is also made for a mixed court (*cour mixte*), to consist of 2 judges of the court of justice, nominated by that body, and 3 members of the council of prudhommes chosen from and by the chamber of appeals. Questions of jurisdiction or competence must always be first decided before a case is heard on its merits. Decisions on such points may be appealed from to the chamber of appeals, no matter what the value of the sum in dispute, or the parties may refer the matter to the mixed court as above described.

The sittings of the tribunal of prudhommes and the chamber of appeals are public and take place in the evening in places provided by the council of state. Each member is allowed a remuneration of 3 francs ($0.58), and the president and secretary 5 francs ($0.97) for each meeting. A member regularly summoned who, without good reason, fails to attend may be fined as much as 20 francs ($3.86).

The special committee on apprentices and workshop hygiene, as its name implies, has general supervision over matters connected with apprenticeship contracts, or the material conditions under which work is performed. It is composed of 4 employers and 4 employees.

The members of the council, as has been said, are, as far as possible, elected from different groups of industries. These groups are (1) watch making, (2) jewelry, (3) building trades, (4) wood working, (5) metal working, (6) clothing trade, (7) food and chemicals, (8) paper and printing, (9) transportation, and (10) banking and commerce. A special supervisory committee is chosen for each group. From these bodies a central committee, consisting of 2 members from each, is elected to serve for 2 years. This central committee acts as a general governing board. It may, at the request of the council, appoint special committees, composed of members of the group or of persons not belonging to the councils at all, for the study of questions pertaining to national industry or commerce, and may institute investigations concerning the conditions of work as regards their healthfulness. The

councils may also be called together at the instance of the council of state, the grand council, or a majority of the presidents and vice-presidents of all the groups to deliberate upon questions of general interest relating to commerce and industry.

NEUFCHÂTEL.—The law providing for the creation of councils of prudhommes was passed November 20, 1885. Unlike the Geneva councils, which are created by the cantonal government upon its own initiative, these councils are only created by the council of state upon the request of the municipal authorities after the matter has been submitted to a vote of the people of the locality. One-half of the expenses resulting from the creation of the councils is borne by the State, the other half by the municipality. The councils decide all disputes arising between employers and employees and apprentices concerning the hiring of labor, the execution of work, and the apprenticeship contract, but they may not take cognizance of cases which do not relate to the relations of employer and employee, even though the disputes may arise between the parties mentioned.

Each council is composed of from 16 to 30 members, one-half of whom are elected by employers and the other half by employees, the different branches of commerce and industry of the locality being represented as far as possible. The members are elected for 3 years and are reeligible. Their duties are obligatory. Each council elects every 6 months, by secret ballot, a board consisting of a president, vice-president, secretary, and vice-secretary, all of whom must be members of the council. The presidency must alternately devolve upon an employer and an employee. When the president is an employer the vice-president must be an employee and vice versa. The same rule applies to the secretary and vice-secretary. A registrar is appointed by the council of state, his salary being mutually agreed upon by the council of state and the municipal council. He receives the requests for convocations, sends out the summonses and invitations, and notifies the members for the various sessions. Each council has a central office, which must be provided and furnished by the municipality.

The council of prudhommes consists of 2 bodies—a board of conciliation and a tribunal of prudhommes. The board of conciliation is composed of 2 members, an employer and an employee, who alternate in presiding over the meetings. All disputes must be submitted to the board within 2 days after the application has been filed with the registrar. The parties are summoned by letter. The sessions of the board of conciliation are not public. The conciliatory transactions are summed up in a report signed by the president and the parties to the dispute, and this act has the force of a judgment. Cases which can not be adjusted by the board of conciliation are sent before the tribunal of prudhommes.

The tribunal of prudhommes consists of a president and 4 members,

2 of whom must be employers and the other 2 employees. The sessions are presided over alternately by the president and vice-president of the council. If the parties do not appear voluntarily, the defendant may be cited to appear by means of a summons issued by the president. If one of the parties wishes to deny the competence of the tribunal to try the case, either on account of want of jurisdiction or because the matter in dispute is not amenable to the action of the court, he must announce the fact the moment his case is called. When such a declaration is made the president suspends the case and causes the registrar to give written notice to the president of the tribunal of the district. The latter calls both parties before him, and, after hearing them, decides finally upon the question of competence, and from this there is no appeal if the amount in dispute does not exceed 500 francs ($96.50). His decision is transmitted to the central registrar, and the president of the tribunal declared competent proceeds to a renewal of the summons. When the subject in litigation exceeds 500 francs ($96.50) the president of the tribunal transmits the case to the civil court of cassation, which gives its decision upon the written statement of the parties. If a party opposes the competence of the tribunal without a justifiable motive, he may be condemned by the judge to pay a fine not exceeding 100 francs ($19.30).

When there is occasion for an inquiry the parties are free to bring witnesses or to have them summoned by the central registrar. Failure to attend on the part of witnesses may be punished by a fine not exceeding 10 francs ($1.93). Witnesses are entitled to ordinary witness fees. If a case is subject to appeal to the Federal tribunal, a written summary of the testimony is made and read to the witnesses. Experts may also be called in to testify.

The judgments of the tribunal of prudhommes are pronounced during the session and are final in all cases coming before it except such as can be appealed to the Federal tribunal. The sessions of the tribunal of prudhommes are public. Each member is allowed a compensation of 1 franc ($0.19) per session. The secretaries of the groups each receive a supplementary fee of 2 francs ($0.39) per session. Without good cause, failure on the part of the prudhommes to attend regularly at the hearings is punished by a fine of 15 francs ($2.90), to be imposed by the tribunal of prudhommes. The proceedings before the tribunals of prudhommes are gratuitous, except that the parties have to pay for the postage, the witness fees, and some other small charges.

In addition to the above-mentioned duties, each council of prudhommes chooses from among its members a committee whose special duty it is to watch over the execution of apprenticeship contracts and the professional instruction of apprentices. If the intervention of the committee does not produce the desired result, the matter is turned

over to the council, which if necessary places it before the tribunal of prudhommes.

Whenever requested by the council of state, the councils must meet in general assembly for the discussion of questions concerning industry or national commerce. The council of state is given power to take whatever measures are necessary to secure the formation and regular operation of councils of prudhommes.

BERN.—Arbitration tribunals, somewhat in the nature of councils of prudhommes, were provided for in the cantonal law of February 1, 1894. They have jurisdiction in the settling of disputes arising out of labor or apprenticeship contracts between manufacturers and master tradesmen on the one hand and journeymen, apprentices, and other employees on the other. Their decisions are final whenever the amount involved does not exceed 400 francs ($77.20), and their jurisdiction excludes that of ordinary courts, although the law does not prevent contending parties from submitting their case to a referee. Employers and employees residing in communes where there are no councils of prudhommes may by mutual consent submit their dispute to some existing council to act as a referee. The councils of prudhommes are created by communes or groups of communes, with the approval of the administrative council. If a considerable number of persons petition for the creation of a council, and the communal government takes no action within six months or refuses the request, the administrative council may, if it is deemed advisable, direct a commune to create one.

For the purpose of creating a council of prudhommes the various industries are classified in groups, not exceeding 8 in number. An equal number of employers and employees, not exceeding 20 in all, is elected from each group as members of the council. They are elected for 3 years and are reeligible. All employers and employees who reside within the jurisdiction of the arbitration court, and who have the right of suffrage as citizens of the Canton, are eligible as electors or as members in their respective groups. Separate voting lists for employers and employees are prepared by the communal council or by the delegates of several communes when they have a council of prudhommes in common. Each group has its own voting lists, which must be opened 8 days before the elections. Service as members of the council of prudhommes is compulsory under the same rules as govern municipal officers, except that a member who has served 3 years may decline reelection for the succeeding term.

After the election of the members of the various groups they are called together in a general assembly, when they elect a president and vice-president, neither of whom can be an employer or employee, and a secretary and vice-secretary. The president presides at the general assemblies as well as at the sessions of the individual group tribunals.

In large districts two or more presidents and vice-presidents may be elected. The central secretary receives the complaints filed, issues the summonses, keeps a record of the proceedings of the general assemblies and of the group sessions, and attends to other clerical work incident to the business of the council.

The tribunal for the trial of cases in each group consists of 2 members, excluding the presiding officer, if the amount involved in the dispute does not exceed 100 francs ($19.30), and of 4 members if that amount is exceeded, an equal number in each case being employers and employees. The members of the council are called upon in rotation for service on the tribunal, and a failure to attend or tardiness at the sessions, when called, may be punished by a fine of from 2 to 20 francs ($0.39 to $3.86), to be imposed by the president. The tribunals of the council of prudhommes are under the supervision of the superior court (*Obergericht*) of the Canton, and must make an annual tabular report to the latter regarding its work.

The sessions of the tribunal, except when attempting conciliation, are public and are held in rooms furnished by the commune. Complaints may be filed either verbally or in writing, and the defendant must be notified at least one day before the time set for trial. Parties to a dispute may also, by mutual consent, bring their case before the tribunal at one of the regular sessions without the previous issuance of a summons. The parties to a dispute must appear in person and state their case verbally unless excused on account of sickness or other necessary cause, in which case they may be represented by members of their families or by fellow-workers. The services of attorneys are not permitted.

If the plaintiff fails to appear at the time set for the trial the case is dismissed upon the request of the defendant. If the defendant fails to appear judgment is rendered in favor of the plaintiff at the latter's request. If neither party appears the case lapses, unless a request is made to the central secretary for a new hearing. Whenever a case is dismissed or judgment rendered in default on account of the absence of one or the other of the parties, the absentee must be notified in writing within 3 days. Request for a reinstatement of the case to its former status may be made within 3 days after receiving notice, and if the costs of the former session are paid and a sufficient excuse is given for the nonappearance at the former session the case may be retried.

When both parties appear the tribunal must first attempt to effect a conciliation. If successful, the agreement reached must be put in writing and signed by the president of the court and by both parties, when it has the force of a judgment; if otherwise, the case must be immediately tried, and after hearing both parties the court must either render judgment or direct what further evidence is necessary in the

case. Only in exceptional cases will the trial be postponed for such purposes. The proceedings are conducted according to the rules which apply in civil law courts. Witnesses and experts may be summoned if desired by the tribunal.

Objection to the jurisdiction of the council must be made before the case is tried. If the question of competence relates to the matter at issue, and not to the territorial jurisdiction, an appeal from the decision of the council may be taken to the court of appeals. If the amount involved does not exceed 100 francs ($19.30), the council declaring itself competent may proceed with the case and render judgment, which, however, can not be executed until its competency is affirmed by the higher court. Members of the court may also be challenged on account of their relation as employer or employee to one of the parties, or for other reasons which would bar persons from sitting in judgment in other courts of law.

When the hearing of the case has been completed a vote is taken to determine the findings, after which both parties are formally notified. Both the vote and the discussion are public. A record is made of the proceedings of each case, which must show the names of the members of the tribunal, the parties to the case, a brief summary of the matter in dispute, the findings, and the costs of the case. The judgment is signed by the president.

Proceedings may be had in the court of appeals to have the judgment set aside upon the ground that the complainant was not notified of the date of trial, and therefore was not present; that the court was not properly constituted; that the complainant was refused a proper hearing; that the defeated party was not capable of making a valid contract and had no legal guardian, and that the judgment was greater than asked for. If the court of appeals finds the complaint well founded the case is remanded, but none of the members of the former tribunal can participate in the new trial. If within a year after judgment has been rendered by an arbitration tribunal new facts are discovered which are considered of sufficient importance, a case may be reopened and a new judgment rendered.

The communal government determines the amount of compensation to be paid the presidents, vice-presidents, and central secretary and vice-secretary, as well as the per diem of members of the councils of prudhommes. The witness and expert fees are fixed by the tribunal. A court fee of from 1 to 10 francs ($0.19 to $1.93) is charged, which must be paid by the defeated party. When this, together with the fines, etc., does not cover the court costs the excess must be paid, in equal shares, by the commune and by the State.

Basel Town.—The creation of industrial arbitration courts was provided for by the law of April 29, 1889. This law also makes provision regarding the conciliation and trial of ordinary civil actions.

That portion of the law relating to industrial disputes, which alone is of interest in this connection, provides that all civil disputes between proprietors of manufacturing and commercial establishments and journeymen, apprentices, or other persons employed by them, arising out of their relations as employers and employees, shall be tried before arbitration courts, unless both parties agree to have the case brought before an ordinary civil tribunal. The decision of the arbitration court is final, unless the amount involved in the dispute exceeds 300 francs ($57.90).

The arbitration court provided for by this law consists, when sitting, of a presiding judge selected from among the presidents of the civil courts and two associate judges, one of whom must be an employer and the other an employee.

For the purpose of creating these courts the various industries are divided into industrial groups. The administrative council determines the number of such groups and the manner of grouping. Each group elects 6 employers and 6 employees to act as judges, these judges holding office 3 years and being reeligible. For each case that comes before an arbitration court the presiding judge selects 2 associates from among the judges elected in the group to which the disputants belong, due regard being also had to the character of the dispute and the alternating of the persons elected as judges. The records of the proceedings of these courts are kept by the clerk of a civil court or his substitute.

All persons who have the right of suffrage as citizens of the Canton and who are represented in the respective groups may vote for the judges. For this purpose separate voting lists are prepared for the employers and the employees in each group. Persons elected as judges must be eligible as voters and must be at least 24 years of age.

Before proceeding to the trial of a case an attempt must be made by the court to bring about a conciliation. If an agreement is thus reached it must be put in writing and signed by both parties, when it acquires the force of a judgment. If the attempted conciliation fails, the trial proceeds. In the trial of a case the same general rules apply as in ordinary civil courts. The parties are each summoned and heard and must appear in person, unless excused by the court on account of sickness or other adequate cause.

Appeals may be had from the decisions of arbitration courts as in the case of other civil actions. When objections or counterclaims arise which lie beyond the competence of the arbitration court the latter must nevertheless render its decision on the main question, but must defer the execution of the judgment until some competent court has acted upon the counterclaim. If the defendant does not bring suit in such other court within a brief time, to be fixed by the judge, the latter proceeds with the execution.

No court fees are required from either party. The judges receive a compensation of 2 francs ($0.39) for each session which they attend.

LABOR BUREAU.

Though Switzerland possesses no labor bureau, properly speaking, mention should be made of the Secrétariat Ouvrier Suisse, which in a measure performs the duties of such an office. This body was constituted December 20, 1886, at Bern. The Secrétariat is an adjunct of the federation of labor organizations, but has an official standing, as it is subsidized by the Government, which directs it to make certain reports. Its publications consist of annual and occasional special reports.

RECENT REPORTS OF STATE BUREAUS OF LABOR STATISTICS.

RHODE ISLAND.

Eleventh Annual Report of the Commissioner of Industrial Statistics, made to the General Assembly at its January session, 1898. Henry E. Tiepke, Commissioner. vii, 404 pp.

This report is devoted entirely to the farming industry. The subjects treated are: Agriculture, 256 pages; poultry raising, 14 pages; bee keeping, 2 pages; farm lands, 10 pages; laws relating to the property and interests of farmers, 102 pages.

The statistics presented in this report are reproduced from the Rhode Island State census of 1895, excepting those relating to abandoned and partially abandoned farm lands which are the result of a special investigation by the bureau. This investigation, which is reported in the chapter on farm lands, disclosed the existence of 200 abandoned farms with farm buildings, having an assessed valuation of $167,750; 83 abandoned farms without buildings with an assessed valuation of $41,175, and 103 partially abandoned farms (the buildings remaining occupied) with an assessed valuation of $157,400. It was shown that 7.4 per cent of the farm properties of the State were either entirely or partially abandoned.

The report also contains a statement of the production and value of certain farm products in Rhode Island from 1887 to 1897, prepared by the statistician of the United States Department of Agriculture.

WASHINGTON.

First Biennial Report of the Bureau of Labor of the State of Washington, 1897–1898. Division I. W. P. C. Adams, Commissioner. 185 pp.

Division I of the present report relates to the work of the bureau of labor, the other two divisions being the reports of the factory, mill, and railroad inspector, and of the coal-mine inspector, respectively. The following subjects are treated in the report of the commissioner of labor: Origin of labor bureaus, 2 pages; physical geography of the State, 7 pages; description of the State by counties, 61 pages; produc-

tions of the State, 38 pages; gold and silver mining and smelting, 22 pages; manufactures, 18 pages; free employment bureaus, 5 pages; commerce, 17 pages; climate, 7 pages.

DESCRIPTION OF COUNTIES.—This chapter contains an account of each county, showing its geographical and climatic features, population, products, and resources. Summary tables are presented showing for each county the public expenditures, births, deaths, and marriages, liquor licenses issued and revenue derived therefrom, and statistics of prisons, jails, and asylums; also for the State statistics of public schools and of newspapers, journals, and job offices, together with a statement of the average wages of printing-office employees.

PRODUCTIONS OF THE STATE.—An account is given of some of the leading natural products of the State, their development, and present condition. These include wheat, flax, live stock, sheep, meat packing, fish, logs, hops, and bulbs. Statistics of assessed and nonassessed lands in the State are also given.

There were, in 1898, 30 fish canning establishments reported in operation with a capital stock of $1,133,900. They gave employment to 2,150 persons, whose aggregate wages were $432,850. Estimates deduced from reports of 27 logging camps gave a total of 2,530 persons employed. Their average wages were $2.17 per day. About 1,700 men were employed for two-thirds of the year in cutting shingle bolts. Their earnings averaged $1.95 per day.

GOLD AND SILVER MINING AND SMELTING.—This chapter contains a brief description of the gold and silver producing sections of the State, a report by a United States assayer upon the mining industry of Washington in 1897, and an article on placer mining; an account of the smelting industry, with statistics of smelting in the State; and statistics of the coinage of the United States mints and of the volume and distribution of money.

Skilled miners in gold and silver mining received from $2.75 to $3.50, and laborers from $2 to $2.50 per day. The average daily wages in leading smelting works were, for skilled labor, from $2.15 to $4, and for ordinary labor, from $1.50 to $2.

MANUFACTURES.—An account is given of each of the leading manufacturing industries of the State, including such statistics as were obtainable by the bureau. The industries thus treated were lumber, lime, and clay manufacturing, flouring mills, and breweries.

A total of 222 sawmills and 146 shingle mills were reported to the bureau, with an estimated output, in 1898, of 980,000,000 feet of lumber and sawed timber and 3,125,320,000 shingles; 2,768 workmen were employed in the sawmills and 2,346 in the shingle mills. The average running time during the year was 306 days in the sawmills and 234 days in the shingle mills.

Sixty-three flour mills were reported, but of these only 12 made returns to the bureau. There were 29 breweries in the State, having an aggregate value of $1,782,750, with an annual output of 189,201 barrels of beer, and they employed 263 skilled workmen. Two lime manufacturing companies reporting produced about 180,000 barrels of lime during the year, and gave employment to 137 persons.

FREE EMPLOYMENT BUREAUS.—An account is given of the municipal employment office at Seattle, prepared by the municipal labor commissioner. This bureau, during the year 1897, found employment for 11,626 persons.

FIRST ANNUAL REPORT OF THE BOARD OF MEDIATION AND ARBITRATION OF CONNECTICUT.

First Annual Report of the State Board of Mediation and Arbitration of Connecticut, 1895. Andrew J. Coe, George A. Parsons, and Gilbert L. Smith, Members. 4 pp.

The above report was made twelve days after the first meeting and organization of the board, and hence but little work had been accomplished. Only one case was considered by the board, and this was satisfactorily settled through its mediation.

FIRST BIENNIAL REPORT OF THE INDIANA LABOR COMMISSION.

First Biennial Report of the Indiana Labor Commission, for the years 1897–1898. L. P. McCormack and B. Frank Schmid, Commissioners. 156 pp.

The Indiana Labor Commission consists of two commissioners, appointed for two years, (*a*) whose duty it is to offer their services as mediators between the parties to labor controversies. Whenever mediation fails, they are required to make an effort to induce the contending parties to submit their differences to a board of arbitration. This board, if constituted according to the provisions of law, consists of the two commissioners and the judge of the circuit court of the county in which the dispute arises, and two other members may be added, if the parties so agree, one to be named by the employer and the other by the employees in the arbitration agreement.

The present report consists of a résumé of the experience and work of the commission, a detailed statement of each of the investigations and settlements made, and copies of laws relating to arbitration and conciliation in the different States.

During the 18 months of its existence the commission investigated 46 labor controversies, of which 39 were strikes and lockouts, 2 were boycotts, and 5 were cases where strikes were prevented by the timely negotiations of the commissioners. The 2 boycotts were raised

a By the law approved February 28, 1899, the commissioners are appointed for 4 years.

through the mediation of the commission. Of the 39 strikes and lockouts investigated, in 7 instances the commission failed to adjust the differences, in 4 cases agreements were reached without the mediation of the commission, and in 28 cases the settlement was due directly to such mediation. In 19 of the last-mentioned cases the employees secured either advanced wages or other improved conditions.

THIRTEENTH ANNUAL REPORT OF THE BOARD OF ARBITRATION AND CONCILIATION OF MASSACHUSETTS.

Thirteenth Annual Report of the State Board of Arbitration and Conciliation of Massachusetts, for the year ending December 31, 1898. Charles H. Walcott, Chairman. 198 pp.

This report consists of an introduction and detailed account of 22 cases dealt with by the board. An appendix contains copies of laws relating to State and local boards and other institutions of conciliation and arbitration in the United States.

During the year 1898 the controversies of which the board took cognizance involved persons whose aggregate yearly earnings were estimated at $4,227,570. The total yearly earnings in the establishments involved, under ordinary conditions, were estimated at $7,849,703. The expense of maintaining the State board of arbitration and conciliation for the year was $8,714.07.

SIXTH ANNUAL REPORT OF THE BOARD OF ARBITRATION OF OHIO.

Sixth Annual Report of the Ohio State Board of Arbitration, to the Governor of the State of Ohio, for the year ending December 31, 1898. Joseph Bishop, Secretary. 76 pp.

This report contains a review of some existing labor and industrial problems, statistics of the work of the board of arbitration since its organization, etc., a detailed account of each case considered during the year 1898, and copies of the law and rules of procedure of the board.

Since its organization in May, 1893, the board has dealt with 83 industrial disputes, of which 74 were strikes and 9 were lockouts. The causes of these disputes and the results are shown for each year from 1893 to 1898 in the following table.

DISPUTES DEALT WITH BY BOARD OF ARBITRATION, BY CAUSES AND RESULTS, 1893 TO 1898.

Year.	Disputes considered.			Cause of dispute.					Result.	
	Strikes.	Lock-outs.	Total.	Reduction of wages.	Demand for increased wages.	Refusal to recognize unions.	Refusal to reinstate discharged men.	Other causes.	Settled.	Not settled.
1893 (a)	10	.....	10	6	.....	2	.....	2	9	1
1894	12	2	14	11	3	.....	.....	.....	11	3
1895	12	.....	12	4	3	.....	1	4	11	1
1896	9	2	11	3	3	2	1	2	9	2
1897	15	4	19	7	8	1	1	2	14	5
1898	16	1	17	7	4	2	2	2	14	3
Total	74	9	83	38	21	7	5	12	68	15

a May to December.

The above statement does not include many strikes dealt with and settled by the board in which the number of employees involved was less than 25 persons and which, therefore, did not technically come under the board's jurisdiction.

BIENNIAL REPORT OF THE BOARD OF ARBITRATION AND CONCILIATION OF WISCONSIN.

Biennial Report of the State Board of Arbitration and Conciliation, for the years 1897 and 1898. R. H. Edwards, Thomas Waddell, G. E. Willott, Members. 102 pp.

This report contains a review of the work of the board during the years 1897 and 1898, a detailed account of each case considered, and reproductions of arbitration and mediation laws in Wisconsin and other States.

The controversies of which the board took cognizance during the two years involved employees whose yearly earnings were estimated at $2,779,500. The aggregate earnings under ordinary conditions in the establishments involved were estimated at about $9,500,000. The entire expenses incurred by the board during the two years were $1,578.27.

RECENT FOREIGN STATISTICAL PUBLICATIONS.

AUSTRIA.

Ergebnisse der in Oesterreich vorgenommenen Gewerbezählung nach dem Stande vom 1 Juni 1897 (sammt den in diesem Stande bis zum 31 Mai 1898 vorgefallenen Veränderungen). Verfasst und herausgegeben vom Arbeitsstatistischen Amte im k. k. Handelsministerium. 1899. xl, 381 pp.

This report of the bureau of labor statistics of the Austrian ministry of commerce gives the results of the industrial census of June 1, 1897, together with such changes as were ascertained up to and including May 31, 1898. The report is confined to an enumeration of establishments and does not include employees or their occupations. The data were obtained through the chambers of commerce and industries, and cover returns from Upper Austria, Lower Austria, Salzburg, Styria, Carinthia, Carniola, Trieste, Goritz, Istria, Tyrol, Vorarlberg, Bohemia, Moravia, Silesia, Galicia, Bukowina, and Dalmatia. Only such branches of industry are included as come within the scope of the industrial code (*Gewerbeordnung*) and the regulations regarding itinerant occupations. These are manufacturing and mechanical industries, trade, and transportation, and some classes of personal service.

The report consists of an introduction and an analysis, copies of instructions given and schedules used, a classified list of industries, and a series of six tables showing the detailed returns. The three principal tables relate, respectively, to the number of establishments on June 1, 1897, the density of industries with regard to area and population, and the changes in the number of establishments from June 1, 1897, to May 31, 1898. The returns, as shown for each province and for the entire country, are classified according to the nature of the industry into 25 principal and 363 minor groups.

The enumeration shows that there were in Austria on June 1, 1897, 883,226 industrial establishments (including those of persons carrying on itinerant trades on their own account). The following table shows the distribution of these establishments among the 25 principal groups of industries:

INDUSTRIES AND ESTABLISHMENTS ON JUNE 1, 1897.

Industries.	Establishments.	Industries.	Establishments.
Raw products (*a*)	1,713	Food products	92,334
Smelting and refining	47	Hotels, restaurants, and saloons	125,587
Stone, clay, earthenware, and glass	16,417	Chemical products	4,906
Metal work	48,276	Building trades	29,053
Machinery, tools, and transportation appliances (*b*)	20,766	Printing and publishing	3,436
Wood working	53,792	Heat, light, and power stations	82
Caoutchouc, gutta percha, and celluloid goods	86	Itinerant trades (*c*)	2,383
Hides, leather, hair, and feather products	10,429	Merchants and dealers	261,628
Textiles	17,591	Merchants and dealers, itinerant	22,367
Upholstering, decorating, and carpet cleaning	2,409	Agencies, commission and warehouse, etc	7,374
Clothing, shoes, hats, millinery, and cleaning	134,183	Banks, pawnshops, loan and insurance companies, etc	2,259
Paper and paper goods	3,636	Transportation, etc. (*d*)	19,834
		Other industries (*e*)	2,638
		Total	883,226

a Comprises flower, vegetable, and nursery products, cattle raising, animal products, turf and sea-salt industries, and the fisheries.
b Comprises machine and car shops, ship yards, manufactures of clocks and watches, carriages and wagons, tools, musical and other instruments, and electrical supplies.
c Comprises itinerant grinders, glaziers, tinkers, broom makers, umbrella menders, rag pickers, etc.
d Comprises land and water transportation, private telegraphs, telephone and messenger services, undertakers, information bureaus, and establishments for renting machinery, tools, clothing, costumes, decorations, etc.
e Comprises bath and massage establishments, chiropodists, dog and horse shearers, and musical services.

Of the establishments enumerated, 564,743 were classed as productive industries, 278,158 as mercantile, 19,834 as transportation, and 2,638 as other industries. The enumeration included, in addition to these, 2,383 persons carrying on itinerant trades, and 15,470 peddlers, etc. Of the minor groups of productive industries the most numerously represented were shoemaking, with 60,314 establishments, men's and boys' clothing, with 38,500 establishments, furniture and fancy woodwork, with 28,350 establishments, butchers, with 27,189 establishments, and flour and grist mills, with 25,403 establishments. Among mercantile establishments those engaged in handling food and food products were most numerous.

The enumeration in many instances considered as separate establishments two or more industries conducted as one establishment, which could not come under the same category in the classification, such as flour mills and bakeries, saloons and groceries, etc. A table is given showing all such establishments, together with a list of the industries conducted in each. The table shows a total of 18,384 establishments of this character.

The table showing the density of industries gives the number of establishments per 100 square kilometers (38.6 square miles) and per 100,000 inhabitants for each of the minor groups of industries in each district and province and for the country as a whole, the total population being based upon the census of 1890.

The changes ascertained from the time of the industrial census of June 1, 1897, until May 31, 1898, are likewise shown for each minor group of industries in each district and province and in the whole of

Austria. These returns show that during this period 83,562 establishments were newly created, 61,898 were discontinued, and 7,841 underwent other changes, such as change of ownership, discontinuance and resumption of business, etc., leaving a net increase of 21,664 establishments. On the other hand, the growth in the number of establishments from December 31, 1890, until June 1, 1897, was 94,270, of which 43,234 were engaged in productive and 51,036 in mercantile industries.

GREAT BRITAIN.

Sixth Annual Report on Changes in Wages and Hours of Labor in the United Kingdom. 1898. lxxviii, 267 pp. (Published by the Labor Department of the British Board of Trade.)

The changes in the market rates of wages and recognized hours of labor of working people in 1898, recorded in the present report, are based upon 1,600 returns from employers and employers' associations, 1,150 from trade unions, 600 from local correspondents, and 900 from official sources. The changes in 1898, both with regard to wages and hours of labor, have been generally favorable to the working people. The following comparative statement summarizes the principal data contained in the returns for the years 1894 to 1898, inclusive:

CHANGES IN RATES OF WAGES AND HOURS OF LABOR, 1894 TO 1898.

Items.	1894.	1895.	1896.	1897.	1898.
Changes in rates of wages:					
Increases	608	624	1,471	1,411	1,345
Decreases	171	180	136	107	61
Total	779	804	1,607	1,518	1,406
Separate individuals affected—					
By increases in rates of wages	175,615	79,867	382,225	560,707	1,003,290
By decreases in rates of wages	488,357	351,895	167,357	13,855	11,865
By changes, leaving wages same at end as at beginning of year	6,414	4,956	58,072	22,882	14
Total	670,386	436,718	607,654	597,444	1,015,169
Average weekly increase in rates of wages	*a* $0.330	*a* $0.314	$0.213	$0.259	$0.385
Changes in hours of labor:					
Increases	2	12	22	7	9
Decreases	219	129	223	247	193
Total	221	141	245	254	202
Separate individuals affected—					
By increases in hours of labor	128	1,287	73,616	1,060	1,277
By decreases in hours of labor	77,030	21,448	34,655	69,572	37,772
Total	77,158	22,735	108,271	70,632	39,049
Average weekly reduction in hours of labor	4.04	1.94	0.73	4.03	2.10

a Decrease.

The data shown in the above table as well as in the tables which follow do not include returns regarding agricultural laborers, seamen, and railroad employees, which were differently ascertained and are separately treated in the report.

CHANGES IN RATES OF WAGES.—The unit adopted for comparison is the rate of wages for a full week's work, exclusive of overtime, at the end of 1898, compared with a similar week at the end of 1897.

The year 1898, like the two preceding, was one of rising wages, all the principal groups of industries excepting textiles showing an advance. Of 1,015,169 persons affected by wage changes in 1898, 1,003,290 had their wages increased and but 11,865 suffered a reduction. The net advance per week per employee affected by changes in wages was 1s. 7d. ($0.385). It is interesting to note that of the 1,015,169 persons whose wages were changed, only 52,035, or 5 per cent, were involved in strikes owing to this cause. The changes in the case of 78 per cent of the employees were the results of direct negotiation; in 17 per cent of the automatic action of sliding scales, and in 5 per cent of arbitration, mediation, or other forms of conciliation.

The great increase in the number of persons whose wages were advanced in 1898 was due largely to a general rise in miners' wages throughout the Kingdom, the group of mining and quarrying showing a total of 673,905 individual employees whose wages were increased. This will be seen in the following table giving, by industries, the number of changes in the rates of wages in 1898 and the number of employees affected:

NUMBER OF INCREASES AND DECREASES IN WEEKLY WAGES, AND EMPLOYEES AFFECTED, BY INDUSTRIES, 1898.

Industries.	Changes.			Employees affected.			
	Increases.	Decreases.	Total.	Wages increased.	Wages decreased.	Wages same at end as at beginning of year.	Total.
Building	503	.....	503	74,725	.....	.....	74,725
Mining and quarrying	82	4	86	673,905	.....	.....	673,905
Metal, engineering, and shipbuilding	454	28	482	212,261	3,295	14	215,570
Textile	28	18	46	3,376	5,602	.....	8,978
Clothing	12	5	17	1,065	1,500	.....	2,565
Miscellaneous	124	6	130	25,819	1,468	.....	27,287
Employees of public authorities	142	.....	142	12,139	.....	.....	12,139
Total	1,345	61	1,406	1,003,290	11,865	14	1,015,169

In the case of each group of industries in 1898, the number of changes resulting in an increase of wages greatly exceeded the number resulting in a decrease. The same is true with regard to the number of persons affected, with the exception of the groups of textiles and clothing. In the building trades and among employees of public authorities there were no changes resulting in reductions in wages.

The net results of these changes in rates of wages are shown by industries for the years 1894 to 1898 in the following table:

AVERAGE INCREASE IN RATES OF WAGES, BY INDUSTRIES, 1894 TO 1898.

Industries.	Average increase per employee per week.				
	1894.	1895.	1896.	1897.	1898.
Building	$0.345	$0.411	$0.502	$0.517	$0.502
Mining and quarrying	a.421	a.461	a.127	.132	.416
Metal, engineering, and shipbuilding	a.157	.005	.370	.269	.279
Textile	.112	.046	.020	.041	a.086
Clothing	.335	.502	.314	.476	.091
Miscellaneous	a.076	a.127	.416	.507	.390
Employees of public authorities	.360	.390	.294	.350	.345
All industries	a.330	a.314	.213	.259	.385

a Decrease.

The average net increase in wages per employee was greater for 1898 than for any other year of the period. The building trades in 1898, as in the two preceding years, show the greatest increase per employee, namely, 2s. ¾d. ($0.502). In the group of mining and quarrying industries where reductions were reported in 1894, 1895, and 1896, and but a slight advance in 1897, an average net increase of 1s. 8½d. ($0.416) was recorded in 1898. The groups of building trades, clothing, and employees of public authorities show an unbroken succession of net increases in rates of wages for each year of the period.

In addition to the above statistics of industries for which a uniform method of collecting and presenting data has been followed, there are other groups, namely, agricultural laborers, railway employees, and seamen for which it was not practicable to obtain returns showing the exact number of persons who were actually affected by wage changes during the year, and hence other methods had to be resorted to.

In the case of ordinary agricultural laborers in England and Wales, information was obtained regarding the current rates of weekly cash wages in January and June, 1898, and these rates were compared with the rates returned for corresponding dates in 1897. The returns thus received show a continued improvement in the wage conditions. The districts in which an increase in wages was reported for 1898 contained 214,297 laborers, or nearly 3 times as many as were reported for similar districts in 1897. The number of laborers in districts where wages fell was only 2,740 in 1898 as compared with 4,932 in the previous year. The total net effect of these changes was an increase of £7,190 ($34,990) per week, or 8d. ($0.162) per head in 1898, compared with £2,411 ($11,733) per week, or 6½d. ($0.132) per head in 1897. Calculated on the total number of agricultural laborers in England and Wales, the rise per head in 1898 amounts to 2¼d. ($0.046) per week compared with a rise of ¾d. ($0.015) per week in 1897, and of ⅛d. ($0.003) per week in 1896, and a fall of ¾d. ($0.015) per week in 1895.

Information received from Scotland and Ireland shows but very slight changes in rates of wages of agricultural laborers.

The monthly wages of able seamen, firemen, and trimmers employed on steamships engaged in foreign trade showed the following increases: Able seamen, from 77s. 9d. ($18.92) in 1897 to 79s. 2d. ($19.26) in 1898, or 1s. 5d. ($0.34); firemen and trimmers, from 82s. 10d. ($20.16) in 1897 to 84s. 1d. ($20.46) in 1898, or 1s. 3d. ($0.30). The monthly wages of able seamen on sailing vessels show a decrease from 57s. 6d. ($13.99) in 1897 to 56s. 7d. ($13.77) in 1898, or 11d. ($0.22). The rates of wages given are in addition to food.

The information concerning railway employees is shown in the form of actual earnings, as the remuneration is usually regulated by graduated scales of pay rather than by fixed wage rates. Returns are published from 29 companies, employing altogether 94 per cent of the railway employees in the United Kingdom. The returns summarized in the following table cover the number of employees and the average wages for the first week in December of each year from 1896 to 1898 in the passenger, freight, locomotive, and machinery construction departments:

AVERAGE WAGES PAID RAILWAY EMPLOYEES IN 29 COMPANIES FOR THE FIRST WEEK IN DECEMBER, 1896, 1897, AND 1898.

Districts.	Companies.	1896.		1897.		1898.	
		Employees.	Average wages.	Employees.	Average wages.	Employees.	Average wages.
England and Wales	16	324,055	$5.94	339,883	$6.05	353,785	$6.11
Scotland	5	39,218	5.52	40,871	5.46	41,148	5.51
Ireland	8	16,841	4.56	17,354	4.72	17,371	4.90
Total	29	380,114	5.84	398,108	5.94	412,304	6.00

While the above table shows a net increase in average earnings, the returns from 8 out of the 29 companies, employing 122,268 persons, indicated a decrease in 1898.

Changes in Hours of Labor.—The year 1898 shows a continued net reduction in the hours of labor, but neither the number of persons affected nor the reduction was as marked as in the preceding year. Of 202 changes reported in the hours of labor in 1898, all but 9 resulted in a reduction. The hours were reduced in the cases of 37,772 persons and increased in the cases of 1,277. The net effect on the 39,049 employees was an average reduction of a little over 2.1 hours per week.

The following table shows for the years 1894 to 1898, inclusive, the number of employees affected by changes in the hours of labor, classified according to the extent per week of such changes:

EMPLOYEES AFFECTED BY CHANGES IN HOURS OF LABOR, BY EXTENT OF CHANGE PER WEEK, 1894 TO 1898.

Year.	Employees whose hours per week were—								Total.
	Increased.		Decreased.						
	Under 1 hour.	1 hour or over.	Under 1 hour.	1 or under 2 hours.	2 or under 4 hours.	4 or under 6 hours.	6 or under 8 hours.	8 hours or over.	
1894	.....	128	2,686	4,141	37,535	9,536	20,504	2,628	77,158
1895	.....	1,287	2,961	9,675	5,235	1,926	1,229	422	22,735
1896	71,899	1,717	4,871	10,695	11,939	2,200	3,301	1,649	108,271
1897	705	355	9,468	30,636	11,534	6,303	5,658	5,973	70,632
1898	944	333	10,213	8,553	13,871	2,710	2,260	165	39,049

Over one-half of the persons affected by changes in hours of labor in 1898 were employees in the building trades, but the net reduction per week per employee was comparatively small in that industry. But few persons were affected by changes in the hours of labor in the mining and quarrying and in the textile groups of industries. This is shown in the following table, giving, by industries, the number of changes in the hours of labor and the number of employees affected during the year 1898:

NUMBER OF INCREASES AND DECREASES IN HOURS OF LABOR, AND EMPLOYEES AFFECTED, BY INDUSTRIES, 1898.

Industries.	Changes.			Employees affected.			Decrease per employee in average weekly hours of labor.
	Increases.	Decreases.	Total.	Hours increased.	Hours decreased.	Total.	
Building	4	107	111	994	18,818	19,812	1.32
Mining and quarrying	.....	5	5	.....	786	786	3.70
Metal, engineering, and shipbuilding	3	25	28	122	4,900	5,022	2.88
Textile	.....	1	1	.....	42	42	3.75
Clothing	1	4	5	55	2,544	2,599	1.87
Miscellaneous	1	38	39	106	8,852	8,958	2.85
Employees of public authorities	.....	13	13	.....	1,830	1,830	4.26
Total	9	193	202	1,277	37,772	39,049	2.10

During the year 1898 an 8-hour day was obtained in the cases of 2,099 employees, 12 of whom were in the public service. A return from an 8-hour day to longer hours of labor occurred in the cases of 146 employees.

PIECE PRICE LISTS AND SLIDING SCALES.—In 1898 11 new piece price lists were reported to the department, 7 lists in operation were amended, and 5 lists previously existing were added to. These lists, which are given in the report, were for the building trades, metal,

textile, boot and shoe, tailoring, transportation, printing, wood-working, glass bottle, and leather industries. New sliding scales are given for iron workers, blast-furnace men, and coal miners. The report also contains specimens of mutual agreements other than piece price lists made in 1898, and lists of sliding scales, piece price lists, and other mutual agreements in operation in 1899.

NEW ZEALAND.

Eighth Annual Report of the Department of Labor of New Zealand, for the year ending March 31, 1899. xxiv, 106 pp.

This report consists of an introduction, 24 pages; statistics concerning persons assisted by the department of labor, 8 pages; accidents, legal decisions, and disputes under the industrial conciliation and arbitration act, 1894, 35 pages; number and wages of employees in factories and railway workshops, 61 pages; permits granted for child labor and reports on accommodations provided for sheep shearers, 2 pages.

INTRODUCTION.—This part of the report consists of a review of labor conditions in New Zealand, remarks upon the tabulated returns concerning factory wages and upon matters of local interest, such as the workings of various labor laws, proposed legislation, industrial conciliation and arbitration, the State farm, and the text of reports of local factory inspectors and agents of the department.

The upward tendency of trade and business noted in recent annual reports continued during this fiscal year. There was a general expansion of industry, due to improved machinery, increased transportation facilities, extended markets, and a good harvest.

PERSONS ASSISTED.—Detailed tables are given, showing by occupations and localities the number of persons who obtained employment through the agency of the department. The statistics are arranged according to conjugal condition and nature of employment given, whether public or private, and show the number of dependents, months unemployed, and causes of failure to obtain work.

During the fiscal year ending March 31, 1899, the department assisted in this way 2,115 persons who had 4,759 others depending upon them for support. Of these dependents 1,178 were wives, 3,300 were children, and 281 were parents and others. Thirty-two wives and 37 children were sent to workmen. Of the persons assisted, 638 were sent to private employment, and 1,477 to Government works. The cause given for failure to obtain employment was slackness of trade in 2,097 cases and sickness in 18 cases.

The following table shows the number of persons assisted, and the number of their dependents for each year, since the founding of the labor department:

PERSONS ASSISTED BY THE DEPARTMENT OF LABOR, 1892 to 1899.

Year ending March 31—	Men for whom work was secured.	Dependents.
1892 (*a*)	2,593	4,729
1893	3,874	7,802
1894	3,371	8,002
1895	3,030	8,883
1896	2,871	8,424
1897	1,718	4,719
1898	2,035	4,928
1899	2,115	4,759
Total	21,607	52,246

a June, 1891, to March 31, 1892.

In addition to the above, 426 women and girls secured employment through the women's branch of the department. Of these, 324 were domestic servants.

Employees in Factories.—This presentation covers all employees who came under the provisions of the factories act during the fiscal year ending March 31, 1899. The tables show, by localities and industries, the number and average weekly wages of all factory employees, arranged according to sex and age groups, those over 20 years of age being taken collectively. There were during the fiscal year 45,305 persons employed in 6,286 factories. This was an increase of 5,633 employees and of 685 factories over the preceding year.

Employees in Railway Workshops.—The data presented for employees in railway workshops show the number of men and apprentices employed and their average wages, by localities and occupations. During the fiscal year 1,248 men and 152 apprentices were employed in railway workshops in New Zealand.

ONTARIO.

Sixteenth Annual Report of the Bureau of Industries for the Province of Ontario, 1897. vii, 136 pp. (Published by the Ontario Department of Agriculture.)

This report relates mainly to agriculture. It comprises the following subjects: Weather and crops, 68 pages; live stock, the dairy, and the apiary, 26 pages; values, rents, and farm wages, 38 pages; chattel mortgages, 3 pages.

Values, Rents, and Farm Wages.—The total value of farm property in 1897 is given at $905,093,613, of which $554,054,552 represents land, $206,090,159 buildings, $51,299,098 implements, and $93,649,804 live stock. There has been a steady decline in the value

of farm property since 1892. The decline in 1897 was much less than in any other year of the period.

There was but little change in the price of farm labor in 1897 as compared with the preceding year. Farm hands with board received in 1897 an average of $144 per year, the same as in 1896. Farm hands without board received an average of $236 in 1897, or $7 less than the preceding year. The average monthly rate of wages during the working season was $14.29, with board, in 1897, or $0.28 less than in 1896. The average monthly rate without board was $24.47 in 1897, or $0.36 more than in 1896. The monthly wages, with board, received by domestic servants fell from $6.11 in 1896 to $5.97 in 1897.

CHATTEL MORTGAGES.—During the year ending December 31, 1897, there were on record 21,526 chattel mortgages, representing $13,382,195. This shows a slight decrease, both in number and in amount, when compared with the preceding year. Of the chattel mortgages in 1897, 12,103, representing $3,933,600, were registered against farmers.

DECISIONS OF COURTS AFFECTING LABOR.

[This subject, begun in Bulletin No. 2, will be continued in successive issues, dealing with the decisions as they occur. All material parts of the decisions are reproduced in the words of the courts, indicated when short by quotation marks, and when long by being printed solid. In order to save space, immaterial matter, needed simply by way of explanation, is given in the words of the editorial reviser.]

DECISIONS UNDER STATUTORY LAW.

By-laws of an Association which are in Restraint of Trade Null and Void—Effect of Antitrust Act—*Bailey et al. v. Association of Master Plumbers of City of Memphis, 52 Southwestern Reporter, page 853.*—This was an action heard in the circuit court of Shelby County, Tenn., and brought by the above-named association against J. A. Bailey & Co. to recover an alleged debt. A judgment in favor of said association was rendered, and the defendants, Bailey & Co., carried the case upon writ of error before the supreme court of the State, which, after a hearing, rendered its decision August 15, 1899, and reversed the judgment of the lower court.

In delivering the opinion of the supreme court, which contained a clear statement of the facts in the case, Judge Caldwell used the following language:

The Association of Master Plumbers of the City of Memphis sued J. A. Bailey & Co. before a justice of the peace to collect an alleged debt of $444. On appeal to the circuit court the presiding judge tried the case without a jury, and pronounced judgment in favor of the plaintiff for the amount claimed. The defendants have appealed in error to this court, and, as they insisted below, here insist that the demand is illegal, and that they owe the plaintiff nothing. The plaintiff is a corporation chartered as a nonprofit association, under section 2, c. 142, acts of 1875 (Shannon's Code, sec. 2514 et seq.), and organized by a majority of the plumbers in the city of Memphis, Tenn. Numerous by-laws were adopted for the government of the association, and some of them were amended from time to time to meet the changing views of the members. One of the amended by-laws, as recited in the president's testimony, was as follows: "Each member of the association was required thereafter to report in open meeting each week what work he had done during the week, and, if it developed that such work was done in competition with any other member (such fact to be made known by the statement of such other member at the meeting at which the work was called out), the member having done the work was to pay into the treasury of the association a fixed sum, according to a schedule agreed upon and made a part of the by-law, namely, for each bath tub put in, $7.50 was to be paid to the association; for each water-

closet, a fixed sum," etc. In accordance with the plain terms of this by-law, the defendants, who were members of the association from the beginning, made weekly reports for some time, and were by the secretary charged on the books of the association with the sums fixed in the schedule for such parts of the work reported as were shown to have been done in competition with other members. The charges so made aggregated $444, and constituted the sole basis of this action and of the judgment below.

Since the plaintiff's demand rests upon the by-law set out above, and nothing else, the first logical step to be taken in the consideration of the case is to determine the legal effect of that by-law. Is it valid or invalid? Its controlling feature, as is readily observed, is the unconditional and inexorable requirement that all members of the association who engage in plumbing work in competition with other members shall pay into the treasury of the association, upon that consideration alone, fixed sums of money for particular kinds of work, which sums in each instance must amount to a large per centum of the price charged. In other words, and more briefly stated, all members doing such competitive work are imperatively required to pay a large tax or tariff thereon to the association. That requirement, however phrased, tends unmistakably and inevitably to one or both of two unlawful results: (1) The destruction of free and natural competition among members: (2) the arbitrary and unreasonable increase of prices to customers. The tax or tariff so imposed by the association is in the nature of a penalty visited on members who shall successfully bid against other members on work appertaining to the plumbing business; and, in the nature of things, the member, who is always conscious of the fact that he must bear the burden and pay that tribute if he gets the job, may be expected to refrain from bidding altogether, or to indemnify himself by adding a corresponding sum to the price he would otherwise charge the customer for the same work. Though the by-law does not in terms require the member doing competitive work to increase the price he would otherwise exact of the customer, such increase is its natural tendency and effect, as would readily be supposed from its scope, and as is conclusively demonstrated by this record. The president of the association testified that "usually he had added this amount [that fixed by the schedule of the by-law in question] to the price of such work as he thought he was bidding on in competition with others, but that, so far as the rule of the association was concerned, he was at liberty to fix his own price, and to do the work at a loss, if he saw fit." No witness testified to a different course of business, or mentioned a single instance in which the customer was not required to bear the burden of this tax or tariff by paying a price enhanced to that extent. Though influential in both particulars, this by-law is not shown to have reduced competition among the members of the association so much as it enhanced prices. In the latter respect it exerted a very large and most hurtful influence upon the public. The arbitrary and unreasonable enhancement in prices was rendered easy, and consequently the more widely harmful and oppressive, by the fact that most of the plumbers in the city of Memphis were members of the association, and that an imperative ordinance of the municipality, as well as the dictates of health and comfort, required all inhabitants to procure and use many of the things for whose sale and construction the association exacted the tax

or tariff from its members. The provision is obviously an unreasonable restraint upon trade, and, being so, it is contrary to public policy and void under the common law. It injuriously affects matters of prime importance and legal necessity to the community at large, by the impairment of competition on the one hand, and the enhancement of prices on the other hand, and consequently no supposed obligation resting upon it is capable of enforcement in a court of justice.

The association now before the court has other by-laws, which further illustrate and demonstrate its hurtful and unlawful tendency. Two of them are as follows: "Art. 9. No member of this association shall purchase any supplies from any supply house, manufacturer, or dealer in plumbing materials who does not comply with the rules and requirements of this association. Art. 10. No member shall buy material of any kind from a jobber who buys material from a manufacturer who sells plumbing or gas fitting material to any one in our city who is not a member of our association." Manifestly these provisions were intended to restrain all members of the association in their purchases of "supplies" and "material," and all dealers who sell to them, in their sales; and at the same time to embarrass nonmembers, and "boycott" dealers who sell to them. The restraint is fourfold. It operates upon members and upon dealers who sell to them, upon nonmembers and upon dealers who sell to them; and in each of the four particulars it interrupts that freedom in trade to which all of them were otherwise entitled, and which the public is interested to have them enjoy. All members and all nonmembers were of right entitled to buy from any and all dealers, at their election, yet the members are restricted to dealers who sell to none but members, and nonmembers are restricted to dealers who sell to none but nonmembers; and, likewise, all dealers were of right entitled to sell to all persons who desired to purchase, yet those of them who sell to members are forbidden to sell to others, and those who sell to others are thereby deprived of sales to members. Thus and to this extent the public loses the benefit of fair and free competition, which it is always entitled to have. These by-laws virtually divided the trade in plumbing materials and supplies for Memphis into two main parts, in the nature of combinations, one of them being represented by members of the association and dealers who sell to them alone, and the other being represented by nonmembers and dealers who sell to them alone; and thereby the two classes are intended to be arrayed against each other, not in fair and free competition, but with a view to the ultimate demolition of the latter class and the entire control of the trade by the former class. The underlying thought is the destruction of all competition with nonmembers, by driving them out of the business, and the acquisition of the whole trade for members, whose competition among themselves and whose prices to customers are subject to the illegal rule already considered.

The fact that every plumber in the city of Memphis had the legal right originally to purchase supplies and materials from any dealer or dealers he might choose did not justify the association in the passage of by-laws requiring its members to buy from that class of dealers it saw fit to name. The two things are not the same, but antagonistic. The former is freedom; the latter, restraint. Only members of the association are technical parties to these by-laws, and as such subject to the punishment of expulsion for their violation. Nevertheless all persons engaged in plumbing work in the city of Memphis, and all

dealers in plumbing material and supplies, wherever located, who sell to them, are necessarily affected by their natural operation, to the extent and in the manner already indicated; and all of those dealers who agree to sell to members of the association only, by that agreement and its observance become parties to the scheme, and assume the same attitude before the law as if they had been technical parties to the by-laws, and agreed to observe them, in the first instance. The proof in the record discloses the fact that several dealers out of the State ratified the by-laws, as far as relating to themselves, and repeatedly refused to sell material and supplies to nonmembers, for no other reason than that doing so would be a violation of the by-laws, and subject them, as dealers, to a "boycott" by the association. This action of important dealers was the consummation of a vital part of the complex scheme; and the arrangement so accomplished, as the natural and intended result of these by-laws, is an illegal restraint on trade, a combination and trust, in limited form, tending to stifle competition and to create a monopoly in a particular line and community. By-laws with such capabilities, import, and design are clearly obnoxious to the common law, as well as violative of our statutes (Shannon's Code, secs. 3185, 6622), which forbid and declare unlawful, null, and void "all trusts, pools, contracts, arrangements, or combinations," or corners, or other devices that are intended to destroy or prevent, or that have a tendency to destroy or prevent, "full and free competition in the production, manufacture or sale of any article of legitimate traffic," or that "are designed or tend to fix, regulate, limit," reduce, or increase the price of such article, or to create a monopoly or a corner therein, or that may in any manner "injuriously affect the legitimate trade and commerce of the country." Whether these by-laws be regarded as a contract, an arrangement, a combination, or a trust, one or all—and we think they partake of the nature of all of them—there can be no reasonable doubt that they were intended and are well calculated to prevent full and free competition in the purchase and sale of articles of legitimate traffic, to influence the prices thereof, and thereby to injuriously affect trade and commerce within the territory contemplated.

CONSTITUTIONALITY OF STATUTE—CONFERRING OF INCONSISTENT LEGISLATIVE AND JUDICIAL POWERS UPON THE SAME BODY—*The Western Union Telegraph Co. v. A. J. Myatt et al.*—By chapter 28, acts of the special session of the legislature of Kansas, 1898–99, a body was created to be known as the "court of visitation" and to have certain powers concerning the regulation of railroads in the State.

Section 8 of said chapter defines the power and jurisdiction of the court throughout the State—to try and determine all questions as to what are reasonable freight rates, switching and demurrage charges, and all other charges connected with the transportation of property between points in the State, etc. Section 28 provides for the rendering of such a decree at the end of each hearing as the pleadings and proof warrant, and section 32 provides that if any company fails to comply with any order or decree for thirty days after promulga-

tion the court may order sequestration of the whole or any part of the company's property, appoint a receiver to take charge and possession of the property, and to operate the same and carry the order and decree into effect, etc. Section 42 provides as follows:

SECTION 42. Whenever it shall be made to appear to said court by affidavit that a strike by the employees, or part of them, of any railroad company organized under the laws of this State or doing business therein is obstructing commerce or the traffic on such railroad and inconveniencing the public, or the people of any municipality, or endangers or threatens the public tranquillity, said court shall issue a citation requiring said corporation to appear before it, at a day and hour named, and make answer, verified by the positive oath of an officer or agent of said corporation residing in this State and then present therein, concerning the said strike, its extent, the cause or causes thereof, what conduct, if any, of said corporation or its officers led to such strike, and the precise point or points of dispute between said corporation and its striking employees. If said answer be not made at the time fixed, or be evasive, the court shall make a final decree as upon hearing and enforce the same as such. If said answer be properly made, the matter shall be without further delay summarily heard upon evidence; and if the corporation be found free from fault in the premises and the strike unreasonable, the court shall so find, and the said proceedings shall be dismissed; and thereupon, and upon public notice as ordered by the court given of such decision, it shall be unlawful for said strikers or any of them to interfere in any manner whatever, by word or deed, with any other employees said corporation may employ and set to work. But if the court shall find that said corporation has failed in its duty toward its employees, or any of them, or has been unreasonable, tyrannical, oppressive, or unjust, and the strike resulted therefrom, the court shall so find specifically, and shall enter a decree commanding such corporation to proceed forthwith to perform its usual functions for the public convenience, and to the usual extent and with the usual facilities, as before said strike occurred; and if said decree shall not be implicitly obeyed, in full and in good faith, the court may take charge of said corporation's property and operate the same through a receiver or receivers appointed by said court until the court shall be satisfied that said corporation is prepared to fully resume its functions; all costs to be paid by said corporation. If, in answer to said original process ordering it to show cause as aforesaid, said corporation shall show to the court's satisfaction that said striking employees have resumed work and said strike has ended, the proceeding shall be dismissed. If in such answer it shall show to the court's satisfaction that said striking employees have resumed work under an agreement to remain in said corporation's service pending the hearing of the proceedings, and that the corporation will abide by the terms of said agreement, then, and only in such case, the hearing of said matter in controversy concerning the cause or causes of said strike may be postponed on request a reasonable time, or from time to time, while said employees so remain at work; and upon settlement of said strike said proceedings may be at any time dismissed; but if said employees again quit work, said matter shall be brought to an immediate hearing and decree, notwithstanding a pending postponement.

Chapter 38 of the acts of 1898–99 provides that the said court of visitation shall have the same power, etc., over all questions concerning the regulation of the telegraph service in the State of Kansas as is conferred upon said court in reference to railroads, and prescribes a schedule of maximum rates.

Certain proceedings against the Western Union Telegraph Company were brought by A. J. Myatt, State solicitor, in the court of visitation, organized under the provisions of chapter 28, above, for the purpose of enforcing the provisions of chapter 38, above. The telegraph company thereupon filed its complaint in the United States circuit court alleging, among other things, that for a long time it had been the owner and engaged in the operation of many miles of telegraph lines in the States and Territories of the United States; that the maximum telegraph rates prescribed by said chapter 38 are materially less than the actual cost of the performance of the service, etc. Said complaint alleged that the enforcement of the above enactments of the legislature would operate to deprive it of its property without due process of law, and asked that further proceedings to enforce the maximum rates complained of be enjoined. The decision of the circuit court was recently rendered and a temporary injunction was issued.

While the points directly involved in this case have no immediate bearing on the labor question, yet as section 42 of chapter 28, quoted above, provides for the interference of the court of visitation in cases of strikes on railroads, and the constitutionality of the entire chapter is involved in the decision, a brief showing of its points will be given. A copy of the opinion of the circuit court, delivered by Judge Hook, has been obtained from the clerk of the court, and the following is quoted therefrom:

In the enactment of the law creating the court of visitation of the State of Kansas and defining its powers and jurisdiction and of the subsequent law extending such powers and jurisdiction to telegraph companies, the legislature attempted to confer upon a single board or body important and substantial legislative, administrative and judicial powers to be exercised in the same proceeding and as to the same subject matter. It attempted to confer full power to regulate the operation of railroad and telegraph companies and to prescribe schedules of rates and charges, which power is legislative or administrative in its character. It also attempted to confer upon the court of visitation the power to pass judicially upon its regulations and the reasonableness of the rates fixed by it, to embody its determinations in decrees which it was authorized to enforce by the appointment of receivers and the sequestration of the property of the companies.

The law creating the court of visitation is in contravention of the constitution of Kansas which inhibits the conferring of inconsistent legislative and judicial powers upon the same body, to be exercised regarding the same subject matter.

An active, potential agency of the legislative power of a State can not be empowered to sit in judgment upon the validity of its own

enactments and to enforce its decrees with reference thereto by the exercise of the extraordinary powers of a court of chancery.

The act establishing the court of visitation is either wholly void or void to the extent that it attempts to confer judicial powers upon that body. It is unnecessary to determine in this case whether the court of visitation, though possessing no judicial functions, may still have and exercise the legislative and administrative powers specified in the acts of the legislature.

CONSTITUTIONALITY OF STATUTE—MECHANICS' LIEN LAW—STREET RAILROADS—*Montgomery et al. v. Allen et al., 53 Southwestern Reporter, page 813.*—Action was brought by H. P. Montgomery and others against Kate Allen and others to enforce certain mechanics' liens claimed under sections 1 and 30 of chapter 151, acts of Kentucky of 1891–1893, now being sections 2463 and 2492 of the Kentucky Statutes of 1894. In the circuit court of Scott County, Ky., a judgment was rendered in favor of the defendants, denying to the plaintiffs priority over certain mortgage bondholders. The plaintiffs appealed the case to the court of appeals of the State, which rendered its decision November 23, 1899, and reversed the decision of the lower court. The principal questions decided were the constitutionality of the mechanics' lien act, above referred to, and the fact of its applicability in the case of a street railroad company, such a company being one of the defendants in the case.

Judge Hobson delivered the opinion of the court of appeals, and from the same the following is quoted:

The act in force when the contracts were made and the work done [section 1 of chapter 151, acts of 1891–1893] gave the mechanics a lien on the land and the improvements superior to any mortgage or incumbrance created subsequent to the beginning of the labor or the furnishing of the materials. This lien related back and took effect from the time the work was begun (acts 1891–1893, p. 505 [section 1 of chapter 151, acts of 1891–1893]). We do not see that this statute is liable to any constitutional objection, as the parties must all be presumed to have contracted with reference to their rights as fixed by it. It does not attempt to displace prior liens, but only to make subsequent liens acquired after the work is begun subordinate to the mechanics' lien.

It is also insisted that no lien exists under the statute on a street railway. The statute is as follows: "All persons who perform or furnish labor or teams for the construction or improvement of any canal, railroad, turnpike, or other public improvement in this Commonwealth by contract express or implied, with the owner or owners thereof, or by subcontract thereunder, shall have a lien thereon and upon all the property and franchises of the owner or owners thereof for the full contract price of such labor, material and teams so furnished or performed, which said lien shall be prior and superior to all other liens theretofore or thereafter created thereon." (See sess. acts 1891–1893, p. 514, § 30 [section 30 of chapter 151, acts of 1891–1893]).

If there could be any doubt that the term "railroad" in the section above quoted would include an electric street railway, under the liberal rule of construction in force in this State, there can be no doubt that the terms "railroad, or other public improvement" certainly cover it. A street railroad is, at least, a public improvement. By this general term the legislature intended to embrace everything of this character. A street railroad is as fully within the purview and spirit of the act as a railroad or turnpike would be. Judgment reversed.

EMPLOYERS' LIABILITY—ASSUMPTION OF RISK—EFFECT OF STATUTE—*Gillin v. Patten and Sherman Railroad Co., 44 Atlantic Reporter, page 361.*—This was an action on the case brought in the supreme judicial court of Maine against the above-named railroad company to recover damages for personal injuries sustained by the plaintiff while employed as a brakeman upon the track of the defendant company at Sherman junction. The plaintiff alleged that in attempting to take certain cars situated at said junction upon the line of a connecting railroad and while uncoupling cars, having pulled the pin, the train still moving, he tried to step out from between the cars, and in so doing caught his left foot in the flare of the main rail and a guard rail, which was not filled or blocked, and received an injury to the foot which necessitated the amputation of a large portion of it. The jury returned a verdict for the plaintiff, and the defendant filed a general motion for a new trial, which was granted in a decision rendered June 2, 1899.

The opinion of the court was delivered by Judge Emery, and the syllabus of the same, which is marked "official," is in the following words:

1. St. 1889, c. 216, requiring each railroad company to fill or block the frogs and guard rails on its track before January 1, 1890, does not require a railroad company, organized and constructing its railroad after that date, to fill or block its frogs and guard rails before allowing trains to be operated over its tracks. Such company is entitled to a reasonable time for compliance with that statute.

2. A brakeman, who has worked as sectionman and brakeman for two years on a railroad where the frogs and guard rails were not filled or blocked, must be presumed to appreciate the danger of getting his foot caught in such frogs and guard rails while stepping about and over them.

3. Such a brakeman, having occasion to work as brakeman on the trains of his employer while passing over another railroad, just constructed (since January 1, 1890), can not rightfully assume that the frogs and guard rails of the new railroad are filled or blocked, and hence dismiss all thought of them from his mind.

4. If such brakeman, under such circumstances, continues to work without requiring the frogs and guard rails to be filled or blocked, he must be held to have waived the right, and to have assumed the risk of injury from stepping into them.

5. For such a brakeman, under such circumstances, to move about

over frogs and switches while coupling and uncoupling cars, even in moving trains, without taking any thought of the frogs and guard rails, or as to where he may be stepping, is negligence on his part contributing to the catching his foot in them.

EMPLOYERS' LIABILITY—ASSUMPTION OF RISK—EFFECT OF STATUTE—*Narramore v. Cleveland, Cincinnati, Chicago and St. Louis Ry. Co., 96 Federal Reporter, page 298.*—This action was brought in the United States circuit court for the western division of the southern district of Ohio to recover damages for personal injuries sustained by the plaintiff, one Narramore, while in the employ of the defendant company as a switchman in its railroad yards at Cincinnati, Ohio. While the plaintiff was attempting to couple two freight cars his foot was caught in an unblocked guard rail, and in his effort to extricate it his right hand was crushed between the drawheads of the cars and injured so badly as to require amputation. Plaintiff had been in the defendant's employ for 7 months. He had had 9 years' experience as a railroad man. There were a great many guard rails and switches in the yard where he worked. With the exception of a few, where experimental blocks were used, the company did not use blocks in either its guard rails or switches. The plaintiff relied on the statute of Ohio passed March 23, 1888, being sections 9822 and 9823 of the Revised Statutes, seventh edition. The sections read as follows:

SECTION 9822. Every railroad corporation operating a railroad or part of a railroad in this State, shall, before the first day of October, in the year eighteen hundred and eighty-eight, adjust, fill or block the frogs, switches and guard rails on its track, with the exception of guard rails on bridges, so as to prevent the feet of its employees from being caught therein. The work shall be done to the satisfaction of the railroad commissioner.

SEC. 9823. Any railroad corporation failing to comply with the provisions of this act shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars.

The defendant company was operating the railroad at the time of the passage of the act and had been continuously operating it since. Upon the above showing, at the close of the evidence, the court directed the jury to return a verdict for the defendant company on the ground that as the failure of the company to block its switches was obvious the plaintiff must be held, notwithstanding the statute, to have assumed the risk of injury therefrom; and such a verdict having been rendered, judgment for the company was entered thereon. The plaintiff then appealed the case to the United States circuit court of appeals for the sixth circuit, which rendered its decision July 5, 1899, and reversed the judgment of the lower court.

The opinion of the court was delivered by Judge Taft, who, in the course of the same, used the following language:

In the absence of the statute, and upon common-law principles, we have no doubt that in this case the plaintiff would be held to have assumed the risk of the absence of blocks in the guard rails and switches of the defendant. His denial of knowledge of the fact that the particular guard rail causing the injury was unblocked is entirely immaterial. In such a case the authorities leave no doubt that the servant assumes the risk of the absence of the blocks, and the employer can not be charged with actionable negligence towards him.

The sole question in the case is whether the statute requiring defendant railway, on penalty of a fine, to block its guard rails and frogs, changes the rule of liability of the defendant, and relieves the plaintiff from the effect of the assumption of risk which would otherwise be implied against him. We have already had occasion to consider in a more or less direct way the effect of the statute. In these cases we held that the failure on the part of a railway company to comply with the statute was negligence per se. A further consideration of the statute confirms our view. The intention of the legislature of Ohio was to protect the employees of railroads from injury from a very frequent source of danger by compelling the railway companies to adopt a well-known safety device. It was passed in pursuance of the police power of the State, and it expressly provided, as one mode of enforcing it, for a criminal prosecution of the delinquent companies. The expression of one mode of enforcing it did not exclude the operation of another, and in many respects more efficacious, means of compelling compliance with its terms, to wit, the right of civil action against a delinquent railway company by one of the class sought to be protected by the statute for injury caused by a failure to comply with its requirements. Unless it is to be inferred from the whole purview of the act that it was the legislative intention that the only remedy for breach of the statutory duty imposed should be the proceeding by fine, it follows that upon proof of a breach of that duty by the railway company, and injury thereby occasioned to the employee, a cause of action is established. In this case there can be no doubt that the act was passed to secure protection and a newly defined right to the employee. To confine the remedy to a criminal proceeding in which the fine to be imposed on conviction was not even payable to the injured employee or to one complaining, would make the law not much more than a dead letter.

Does a knowledge on the part of the employee that the company is violating the statute, and his continuance in the service thereafter without complaint, constitute such an assumption of the risk as to prevent recovery? Assumption of risk is a term of the contract of employment, express or implied from the circumstances of the employment, by which the servant agrees that dangers of injury obviously incident to the discharge of the servant's duty shall be at the servant's risk. In such cases the acquiescence of the servant in the conduct of the master does not defeat a right of action on the ground that the servant causes or contributes to cause the injury to himself; but the correct statement is that no right of action arises in favor of the servant at all, for, under the terms of the employment, the master violates no legal duty to the servant in failing to protect him from dangers the

risk of which he agreed expressly or impliedly to assume. The master is not, therefore, guilty of actionable negligence towards the servant. This is the most reasonable explanation of the doctrine of assumption of risk.

If, then, the doctrine of the assumption of risk rests really upon contract, the only question remaining is whether the courts will enforce or recognize as against a servant an agreement express or implied on his part to waive the performance of a satutory duty of the master imposed for the protection of the servant, and in the interest of the public, and enforceable by criminal prosecution. We do not think they will. To do so would be to nullify the object of the statute. The only ground for passing such a statute is found in the inequality of terms upon which the railway company and its servants deal in regard to the dangers of their employment. The manifest legislative purpose was to protect the servant by positive law, because he had not previously shown himself capable of protecting himself by contract; and it would entirely defeat this purpose thus to permit the servant "to contract the master out" of the statute.

Judgment reversed, at costs of the defendant, with directions to order a new trial.

EMPLOYERS' LIABILITY—FELLOW-SERVANTS—DUTY OF MASTER—*Mann v. O'Sullivan, 58 Pacific Reporter, page 375.*—This action, brought by John Mann against Mary Ann O'Sullivan, to recover damages for injuries incurred by him while in her employ, was heard in the superior court for the city and county of San Francisco, Cal., and a judgment was rendered therein for the defendant. It appeared from the evidence that Mann was employed to repair an elevator in a building owned by the defendant, and that while so engaged, and owing to the negligence of one Emmet Carney, the operator of the elevator, the elevator moved and struck the screening where the plaintiff was at work and injured him. Upon the rendition of the judgment by the court as above mentioned the plaintiff appealed the case to the supreme court of the State, which rendered its decision September 13, 1899, and affirmed the judgment of the court below. Section 1970 of the Civil Code of California has some bearing upon this decision and reads as follows:

SECTION 1970. An employer is not bound to indemnify his employee for losses suffered by the latter in consequence of the ordinary risks of the business in which he is employed, nor in consequence of the negligence of another person employed by the same employer in the same general business, unless he has neglected to use ordinary care in the selection of the culpable employee.

From the opinion of the supreme court, delivered by Judge Garoutte, the following is quoted:

The important matter presented by this appeal arises from the solution of the question as to whether or not the plaintiff and Carney, the man operating the elevator, were fellow-servants. In other words,

these two men being employed by defendant, were they employed "in the same general business?" (Section 1970, Civil Code.) It is impossible to declare a rule of law by which all cases presenting this interesting question may be weighed and tested. The authorities are widely divergent, and text writers appear to be unable to agree upon a satisfactory rule by which it may be determined who are fellow-servants, or what servants are engaged in a common employment, or, as the statute of this State has it, what servants are employed "in the same general business." Shearman & Redfield, in their work upon Negligence, declare the rule as favorably to the servant as it can be found in any standard work, and that rule is declared in section 236: "Under the generally prevailing rule, fellow-servants are engaged in a common employment when each of them is occupied in service of such a kind that all the others, in the exercise of ordinary sagacity, ought to be able to foresee, when accepting their employment, that his negligence would probably expose them to injury." Testing this case by the foregoing rule, the conclusion is irresistible that plaintiff, who was employed to repair the elevator shaft, and Carney, the man who was employed to operate the elevator, were servants of defendant engaged in a common employment, or, as our statute has it, engaged "in the same general business." It was plain to the plaintiff when he began work in repairing the elevator shaft that the negligence of Carney would expose him to great danger. He recognized the fact that danger was present with him, for he instructed Carney not to raise the elevator without a notification to him, in order that he might first remove to a place of safety. The conclusion arrived at in many cases rests upon the principle that, the danger from the negligence of another employee being fairly apparent, it should be held that all other employees assume the risk incident to that danger; and this principle forms the foundation of the rule which we have quoted from Shearman & Redfield.

It is also declared that it was the duty of the master to warn plaintiff when the elevator was about to start. If there had been an express agreement to that effect made by the master and the servant, the plaintiff, when he was hired to do the work, there might be some force in this contention. But plaintiff went to work without any such agreement, and acted alone upon the confidence he had in a compliance with the request he made to the elevator man, Carney, to give him notice of the starting of the cage. For the foregoing reasons the judgment is affirmed.

EMPLOYERS' LIABILITY—NEGLIGENCE OF MASTER—EFFECT OF STATUTE—*Consolidated Coal Company of St. Louis v. Bokamp, 54 Northeastern Reporter, page 567.*—Frank Bokamp, a driver in a coal mine of the above-named company, was injured in an accident due, as he claimed, to the negligence of the company, and brought suit to recover damages therefor. The evidence showed that three or four days before he was hurt he noticed that two crossbeams supporting a part of the roof of the mine were cracked, and sagged down in the middle; that he notified the pit boss of the dangerous condition of the roof and the pit boss promised to have it repaired; that on the day he was injured

he had made several trips with cars, passing under these beams, and had found the ground under them clear and free from coal; that on the trip during which he was injured he was trying to mount his seat on the front car just as his cars were about to start on a down grade, and while about under these crossbeams his foot was caught on some slack and top coal, which had been precipitated from the defective roof since the time he had passed on his last trip, and he was thrown forward and jerked off by the timber which supported one end of the broken crossbeams and he was hurled in front of the first car, which so crushed and mangled him as to paralyze both lower limbs and to render the amputation of one of them necessary. A judgment in favor of the plaintiff was rendered in the circuit court of Illinois, where the case was tried, and was affirmed on the appeal made to the appellate court for the third district. The defendant company then appealed the case to the supreme court of the State, which rendered its decision June 21, 1899, and affirmed the judgment of the lower courts.

The opinion was delivered by Judge Phillips, and among the numerous points considered one of some special interest is referred to in the following words:

Counsel for appellant contends that the statute has formulated a complete code of rules for mine management, and that the common-law rules of negligence are thereby superceded, and that especially is this true so far as the case of the roof is concerned; that the statute [sec. 16, chap. 93, Annotated Statutes of 1896], which requires that the owner, agent, or operator of every coal mine shall keep "a supply of timber constantly on hand of sufficient length and dimensions to be used as props and cap-pieces, and shall deliver the same as required, with the miners' empty car, so that the workmen may at all times be able to properly secure said workings for their own safety," supercedes any other obligation on the part of the mine owner to look after the roof, and to provide a reasonably safe place for the workmen.

It is a well-settled rule of law, and one that this court has announced, that the master owes a duty to the servant to exercise reasonable or ordinary care to provide a safe place for the servant, or a place reasonably safe and fit for the use intended, and to exercise a like degree of care in the furnishing of tools and appliances, and in the selection of colaborers.

The degree of care required on the part of the master varies with the nature of employment, and the means of knowledge of the servant. This does not mean that the master is an insurer, nor does it relieve the servant from due care. If the servant has no knowledge of risks of which the master has knowledge, it is his duty to warn him. If the converse is true, the servant should notify the master, or, if the peril is imminent, cease work. The requirement of the statute above referred to seeks to protect the miners by compelling the mine owner to provide material "so that the workmen may at all times be able to properly secure said workings for their own safety." If the workmen, only, used this timber, propped the roof themselves, and themselves undertook to secure the same against injury, it might well be said they assumed the risk. But here appellee had nothing to do with

the roof. He found it out of repair, and the appellant had notice, through its vice principal, Ramsey [the pit boss], and assumed to repair it. The evidence further shows that the company had timbermen in its employ, whose duty it was to protect the roof. Appellee's duties gave him no time, nor does it appear that he had the means or ability, to make the needed repairs. It were to test the flexibility of the law too far to stretch this statutory enactment as a shield over appellant now. Judgment affirmed.

EXCLUSION OF ALIEN IMMIGRANTS—CONSTRUCTION OF STATUTE—CONCLUSIVENESS OF DECISION OF IMMIGRATION OFFICERS—*In re Ota, 96 Federal Reporter, page 487.*—A petition for a writ of habeas corpus to review the action of the Secretary of the Treasury in denying the petitioner, one S. Ota, an alien, the right to enter the United States, was filed in the United States district court for the northern district of California.

The decision of the court denying the petition was rendered September 1, 1899, the opinion, delivered by District Judge De Haven, reading as follows:

This is a proceeding arising upon a writ of habeas corpus issued in behalf of one S. Ota, and the case was submitted to the court for its decision upon the petition for the writ, the return thereto, and certain admissions made by counsel during the argument, from which I find the following facts: That Ota is a native and subject of the Empire of Japan, and for more than eight years has been a resident of the State of California, and is now a merchant, and member of the firm of Ota & Sanada, San Francisco; that said firm deals in Japanese fancy goods, teas, and coffee, and imports, manufactures, and sells all kinds of bamboo furniture; that in March of the present year Ota went to Japan for the purpose of buying goods for his firm, and, after having made purchases to the amount in value of more than $5,000, he returned to San Francisco on the steamship Hongkong Maru, arriving at that port on or about August 5, 1899, and thereafter, on the 10th day of August, 1899, after a special inquiry by the immigration officials at the port of San Francisco, he was found to be suffering from a loathsome and contagious disease, and was ordered by H. H. North, the commissioner of immigration at that port, to be returned to Japan. This order was, on appeal to the Secretary of the Treasury, affirmed, and Ota is now in the custody of the steamship company operating the Hongkong Maru, for the purpose of being returned to the country whence he came.

It appears very clearly from these facts that Ota is not an alien immigrant, and the commissioner of immigration and the Secretary of the Treasury, if the same facts were before those officers, erred in ordering him to be returned to Japan as such. The act of March 3, 1891 [chap. 551, Acts of 1890–91; vol. 26, U. S. Statutes at Large, p. 1024], under which the order for the deportation of Ota is attempted to be justified, does not apply to aliens domiciled in this country, and who are returning thereto after a temporary absence. But under the act of August 18, 1894 [chap. 301, Acts of 1893–94; vol. 28, U. S. Statutes at

Large, p. 390], the decision of the Secretary of the Treasury to the contrary can not be reversed or set aside by the court in this proceeding. That act provides: "In every case where an alien is excluded from admission into the United States under any law or treaty now existing or hereafter made, the decision of the appropriate immigration or customs officers, if adverse to the admission of such alien, shall be final, unless reversed on appeal to the Secretary of the Treasury."

Under this statute, when the executive officers of the Government, upon a hearing such as is contemplated by the law, have decided that an alien is not entitled to enter the United States, the courts are without jurisdiction to review that determination upon questions either of law or of fact. The finding of these officers that an alien seeking to land is an immigrant is as conclusive upon the court, in a proceeding like this, as their finding in relation to any other fact affecting the right of the alien to land. The writ will be discharged.

LIABILITY OF RAILROAD COMPANIES FOR WAGES OF LABORERS DUE FROM SUBCONTRACTORS—*George v. Washington County Railroad Co., 44 Atlantic Reporter, page 377.*—This action was brought in the supreme judicial court of Maine by John George against the above-named railroad company to recover wages due from certain subcontractors of the railroad. The case came before the full bench on an agreed statement from the supreme judicial court in Washington County and the action was based on section 141 of chapter 51 of the Revised Statutes, which reads as follows:

SECTION 141. Every railroad company, in making contracts for the building of its road, shall require sufficient security from the contractors for the payment of all labor thereafter performed in constructing the road by persons in their employment; and such company is liable to the laborers employed, for labor actually performed on the road, if they, within twenty days after the completion of such labor, in writing, notify its treasurer that they have not been paid by the contractors. But such liability terminates, unless the laborer commences an action against the company, within six months after giving such notice.

The decision of the court was rendered July 22, 1899, and was in favor of the plaintiff. The opinion of the court was delivered by Judge Emery, and the syllabus of the same, marked "official" in the report of the case, reads as follows:

1. The statute (Rev. St. c. 51, sec. 141), authorizing laborers employed by contractors in building a railroad to maintain an action against the railroad company for unpaid wages, includes laborers employed by subcontractors.

2. Though such laborers are to be paid monthly by the contractors employing them, they are not required by the statute to notify the railroad company of the nonpayment of each month's wages within 20 days after the end of the month. It is sufficient if the notice be given within 20 days after the completion of their labor under their employment.

MINES—WEIGHING COAL BEFORE SCREENING—SUFFICIENCY OF INDICTMENT—*State v. Pasco, 54 Northeastern Reporter, page 802.*—James Pasco was indicted for violating the provisions of sections 7465 and 7467 of the Annotated Statutes of Indiana of 1894, governing the weighing of coal and giving the miner the benefit of the weight before screening. Said sections read as follows:

SECTION 7465. All coal mined in this State under contract for payment, by the ton or other quantity, shall be weighed before being screened, and the full weight thereof shall be credited to the miner of such coal, and eighty pounds of such coal as mined shall constitute a bushel, and two thousand pounds of coal as mined shall constitute a ton: *Provided*, That nothing in this act shall be so construed as to compel payment for sulphur, rock, slate, blackjack, or other impurities, including dirt, which may be loaded with, or amongst the coal.

SEC. 7467. Any owner, operator, agent, lessee, superintendent, or bank boss who shall violate the provisions of section five [7465, A. S.] and six [7466, A. S.] of this act, shall upon conviction thereof be fined in any sum not less than one hundred dollars ($100) for each and every day during which such a violation shall continue.

In the circuit court of Greene County, Ind., a motion to quash the indictment was sustained, and the State appealed the case to the supreme court of the State, which rendered a decision October 10, 1899, and sustained the action of the lower court.

Judge Headley delivered the opinion of the supreme court, and in the course of the same used the following language:

Pasco's motion to quash the indictment was sustained, and the State appeals. The gravamen of the offense defined in section 7465 is the failure of the responsible party to credit the diggers, who work for a price per ton or other quantity, with the weight, before screening, of the coal mined by them. Unless the purpose of the weighing is to ascertain the basis for settlement with those who mined the coal, the law is not offended by weighing it after screening, nor is the weighing of it before screening commanded only when it is a necessary means to correctly credit the miners with the full amount mined by them. Once weighed before screening and properly credited to the miners, the law takes no further account of any subsequent weighing. It is, then, the weighing and crediting to the miners the full weight of the coal mined by them that is required by the statute, and, to make a charge sufficient thereunder, it is essential, as in all criminal pleading, that the indictment state the offense by clear and positive averments. The allegation that Pasco failed to weigh the coal before it was screened, and did weigh it after it was screened, without disclosing some intended or executed purpose affecting the rights of the miners, states no offense. For anything that appears in the indictment, the miners might have previously received their proper weight and credit, and the failure to weigh complained of may have no relation to the accounts of those who mined the coal. A defendant to a criminal charge can not be required to plead to such uncertainty.

And there is another infirmity in the indictment equally fatal. It is charged that Pasco was a mining boss. Mining boss is not one of the classes made amenable to the statute. He is not described as being

authorized to exercise the powers of an owner, operator, agent, lessee, superintendent, or bank boss. He must be one or the other, or act as within one or the other, of these classes, or he is not under the ban of the statute. It is not averred that it was his duty to weigh the coal before it was screened, or that he had any authority to weigh it, nor what his duties really were as mining boss. For aught that is alleged, it might have been the duty of his employment to weigh the coal after it was screened and fitted for market. The substantial fact is left to conjecture, and conjecture can not serve as a basis for an indictment. The motion to quash the indictment was properly sustained. Judgment affirmed.

DECISIONS UNDER COMMON LAW.

EMPLOYERS' LIABILITY—ASSUMPTION OF RISK BY EMPLOYEE WHILE TEMPORARILY EMPLOYED BEYOND THE SCOPE AND TERMS OF HIS EMPLOYMENT—*Norfolk Beet-Sugar Company v. Hight, 80 Northwestern Reporter, page 276.*—Action was brought in the district court of Madison County, Nebr., by Thomas G. Hight to recover damages from the above-named company for personal injuries sustained while in its employ. The evidence showed that Hight was engaged by the company's foreman for a particular purpose, viz, to sweep and keep clean the floor of the "filter-press room," and for that purpose only; that in said room there was a rapidly moving belt; that the foreman ordered him to take a gunny sack and wipe from said belt some water which had accumulated thereon; that the plaintiff had had no experience in the use and operation of such machinery, and was ignorant of the peril involved in yielding obedience to the foreman's direction; that he proceeded, in the manner indicated by the foreman, to wipe the water from the belt, and while so doing his hand, coming in contact with the belt, was drawn over the wheel on which the belt was running and was crushed and mangled. Upon this evidence a judgment was rendered for the plaintiff, and the defendant company carried the case before the supreme court of the State upon a writ of error. Said court rendered its decision October 5, 1899, and affirmed the judgment of the lower court.

The opinion was delivered by Judge Sullivan, and from the syllabus of the same, which was prepared by the court, the following is quoted:

5. A servant, while temporarily employed in a more hazardous service than that for which he has been engaged, assumes only such risks, in connection with the work, as are equally open and apparent to himself and his employer.

6. If a servant is called by his master to perform work beyond the scope and terms of his employment, and there are hazards incident to the extra service which are or ought to be known to the master, and which the servant, on account of ignorance or lack of experience, does not understand or appreciate, it is the duty of the master to point them out—to indicate the peril and the means of avoiding it.

7. But if the danger is in fact known to the servant, or if the accident could be avoided by the exercise of ordinary care on his part, the doctrine of contributory negligence forbids a recovery.

EMPLOYERS' LIABILITY—DUTY OF THE MASTER—FELLOW-SERVANTS—NEGLIGENCE—*Pool v. Southern Pacific Co., 58 Pacific Reporter, page 326.*—In the district court of Weber County, Utah, a judgment was rendered in favor of the plaintiff in a suit brought by Malola Pool, administratrix of Joseph Pool, against the above-named company to recover damages for the death of said Joseph Pool, caused, as alleged, by the negligence of the defendant company and its servants while the deceased, as an employee under the direction of the defendant, was engaged in repairing a car. The defendant company appealed the case to the supreme court of the State, which rendered its decision July 3, 1899, and affirmed the judgment of the lower court.

The opinion of the supreme court was delivered by Judge Baskin, and the syllabus of the same, which was prepared by the court, sufficiently shows the facts and decision in the case, and reads in part as follows:

2. Under the rule that the contract of employment imposes upon the master the implied obligation not to expose the servant to dangers which the master, by the exercise of reasonable care, skill, and prudence, could avert, evidence which shows that deceased, a car repairer, was directed to repair a car standing on a track other than a repair track, that he went under the car for the purpose of making repairs as directed, that no danger flag was placed on the car being repaired, and that while the deceased was so employed an engine and caboose, under the direction of K., the foreman of the switchmen in the train department, who had actual knowledge of deceased's position under the car, were backed against the car, resulting in the injury and death of the deceased, clearly shows that defendant did not properly discharge the duties which he owed to the deceased under the contract of employment, and was guilty of gross negligence.

3. Among the implied duties imposed by the contract of employment upon the master are that he shall provide reasonable and suitable means and appliances to enable the servant to do his work as safely as the hazard incident to the employment will permit, and that he will provide a suitable and reasonably safe place for doing the work to be performed by the servant.

4. The master can not escape liability for injuries inflicted upon his servant for a negligent discharge of these duties by intrusting their performance to another. These duties are personal duties of the master, which can in no way be delegated so as to relieve him from responsibility. A failure to perform these duties, or any negligence in their performance is the negligence of the master, for which he is liable. Such negligence is not a hazard necessarily attendant upon the occupation of the servant, nor is it one which he, in legal contemplation, is presumed to risk in the service of the master.

5. When the nature of the business is such as to require it, the law

imposes upon the master the duty of making and promulgating suitable rules to promote the safety of his employees.

6. When the nature of the employment of car repairer is so hazardous as the evidence herein disclosed, the duty is imposed upon the master of making and promulgating a rule requiring the placing of danger flags upon cars when repairers are under them, and forbidding any coupling to be done by a locomotive while they are so engaged.

7. A laborer in the car shops of a railroad corporation and the foreman of the switchmen in the train department are not fellow-servants.

8. Even if the injury complained of was directly caused by the act of a fellow-servant, if the chances of its occurrence would have been greatly less if the defendant had faithfully performed the duties it owed deceased, and its negligence in this regard contributed to the injury, the defendant is liable.

9. It is only when the negligence of the plaintiff clearly appears from the evidence that a trial court is justified in withdrawing the question of contributory negligence from the jury; and, where the place where the deceased was ordered to work was not necessarily or inherently dangerous, he had a right to presume that he would not be exposed to unnecessary danger, and that defendant had used proper care to render the place where he was to work reasonably safe, and the fact that he, in obedience to the order of the foreman in charge of repairers, went to work under the car, beneath which he was fatally injured, does not establish contributory negligence.

EMPLOYERS' LIABILITY—NEGLIGENCE—FELLOW-SERVANTS—*Burke v. National India Rubber Co., 44 Atlantic Reporter, page 307.*—In an action brought in the common pleas division of the supreme court of Rhode Island by John F. Burke against the above-named company, to recover damages for injuries incurred by him while in its employ, a judgment in his favor was rendered. The defendant company petitioned the court for a new trial, and after a hearing by the full bench a decision was rendered December 20, 1897, granting said petition.

The opinion of the court, containing the facts in the case, reads as follows:

The testimony shows that in obedience to the order of the defendant's foreman, Finch, communicated to them through Walsh, who tended the calender machine, the two boys, Mahar and Farley, proceeded to clean out the pit before that time occupied by the gearing of a calender machine which had been removed from that location; that in doing this Mahar and Farley threw the grease, dirt, scraps of gum, and other material which had accumulated in the pit, onto the brick floor in front of the rolling mill, by which the plaintiff was injured; that they subsequently removed this from the floor, except some of the grease which adhered to the brick and rendered it slippery; that this work was done between 3 and 4 o'clock in the afternoon; that the accident to the plaintiff happened on the same afternoon, shortly before 6 o'clock, and was occasioned, as the jury found, by the plaintiff's slipping on the greasy floor and falling against the rolls of the mill.

We think that the leaving of the grease on the floor by Mahar and Farley must be regarded as the carelessness of fellow-servants of the plaintiff, and consequently that the common pleas division erred in refusing the defendant's fifth request for instructions. The short interval of time between the leaving of the grease on the floor and the accident to the plaintiff was insufficient to charge the defendant with notice of the condition of the floor, and thereby render it liable for a breach of its duty to the plaintiff to furnish him safe premises on which to work. New trial granted and case remitted to the common pleas division.

A rehearing of the case was asked for by the plaintiff and upon this the court delivered its decision October 13, 1899, sustaining its earlier decision and denying the plaintiff's request. The opinion is in the following language:

The plaintiff seeks, by his first contention, to bring his case within the principle which requires a master to furnish reasonably safe premises for his servant, and that, when a master delegates to a servant a duty which belongs to himself, the servant will occupy the place of the master, and not that of a fellow-servant. But we do not think that the case falls within this principle. The defect was not a defect in the construction of the floor itself, but that which was complained of as rendering the floor dangerous was the grease adhering to the brick composing the floor, which had been thrown upon it in the cleaning out of the pit by Mahar and Farley, and which had been on the floor but two or three hours, an interval, as we thought, too short, in the absence of actual notice, to charge the defendant with constructive notice of the condition of the floor. The cleaning up of floors of manufactories is a part of the duty of employees, rather than of the master; and if such work is not properly done, and an accident results to an employee in consequence, the negligence, in the absence of notice of the conditions to the master, is clearly, as it seems to us, the negligence of a fellow-servant or servants.

The plaintiff further contends that the work done by Mahar and Farley was not, as maintained by the defendant, work in the ordinary conduct of the defendant's business, and therefore argues that they were not fellow-servants with the plaintiff, but were as much strangers to the plaintiff, so far as this employment is concerned, as though they had never been employed by the defendant, or, to put it in other words, as though, having been employed by the defendant at some time, they had been discharged, and reemployed for this particular work. We do not, however, take this view of the matter. The cleaning out of a pit which has been occupied by the gearing of a machine, or the scrubbing of a floor which has become greasy, is, it seems to us, a mere incident of the manufacturing which the defendant was carrying on in its works, and the servants who were engaged in it were as much engaged in a common employment, to wit, the manufacturing of rubber goods, which was the business of defendant, as was the plaintiff, who was employed in the course of that manufacturing in feeding rubber strap to a grinding mill.

EMPLOYERS' LIABILITY—RAILROAD COMPANIES—NEGLIGENCE OF EMPLOYER—*Texas Midland Railroad v. Taylor, 53 Southwestern Reporter, page 362.*—Suit was brought by Eliza L. Taylor to recover damages for the death of her husband, one John W. Taylor, caused, as alleged, by the negligence of the defendant company above named, in whose employ, as a locomotive fireman, Taylor was when killed. The evidence showed that Taylor was leaning out of the cab of his engine while the train was running over a certain track, trestle, and bridge, and that while thus engaged he was struck by a part of the bridge and killed. In the district court of Hunt County, Texas, a judgment was rendered in favor of the plaintiff and the defendant company appealed the case to the court of civil appeals of the State, which rendered its decision May 13, 1899, and affirmed the judgment of the lower court. The company then applied to the supreme court for a writ of error, but such action was refused.

The opinion of the court of civil appeals was delivered by Chief Justice Finley, and the following is taken therefrom:

We have carefully considered the evidence as contained in the statement of facts, and announce these conclusions of fact as authorized therefrom: (1) The bridge and track were defective in construction, and not in a proper state of repair, and this constituted negligence on the part of the company, and caused the death of John W. Taylor, who was the husband of appellee. (2) The facts do not show that the deceased husband was guilty of contributory negligence. (3) The evidence justified the finding of the jury, and we conclude that the deceased did not know of the defective condition of the bridge and track. (4) The deceased was at his post of duty at the time he received the fatal injury through the negligence of his employer.

Applying familiar principles of law to the foregoing facts, the husband of appellee, without fault or negligence on his part, having received injuries resulting in his death, caused by the negligence of appellant, appellee was entitled to recover such pecuniary damage as she suffered from the death of her husband. We find no error in the judgment, and it is therefore affirmed.

RELIEF ASSOCIATIONS—BILL TO DISSOLVE—*Atnip v. Tennessee Manufacturing Co. et al., 52 Southwestern Reporter, page 1093.*—A bill in equity was filed by J. R. Atnip, in the chancery court of Tennessee to secure the dissolution of a relief association called the "Tennessee Manufacturing Company's Operative Voluntary Relief Association" and the distribution of its funds to those entitled. The decision of the chancellor was rendered April 22, 1898, ordering the dissolution of the association and sending the case to a master in chancery to take proof and report upon certain facts. The defendants appealed the case to the court of chancery appeals of the State which rendered its decision December 3, 1898, and reversed the decree of the chancellor

and ordered that the bill be dismissed. The case was then appealed to the supreme court of the State, which, in an oral opinion rendered January 14, 1899, affirmed the decision of the court of chancery appeals.

The opinion of the said court of chancery appeals, the only written opinion in the report of the case, contains a clear statement of the facts, and from it, as delivered by Judge Wilson, the following is quoted:

The facts, in brief, appearing in the record, proper to be stated to present the contentions of the parties, are these:

In 1886, the operatives of the Tennessee Manufacturing Company, a corporation of this State, with its *situs* at Nashville, Davidson County, Tenn., aided and stimulated by the company, organized the relief association under the name stated in the bill. It was never incorporated, and its object was purely charitable, and not in any way for profit. The central idea of the scheme was to provide a fund, by monthly contributions from its members, from which to aid sick members, bury its dead, and pay a benefit to the families of its deceased members. Its membership was confined to the employees and operatives of the defendant manufacturing company. The association adopted a set of regulations or by-laws for its government. These regulations or by-laws, so far as pertinent to the issues in the case, are as follows: Section 1 names the association, and provides for the relief fund, and the purposes for which it shall be used. Section 2 puts the management of its business under the control of a joint advisory committee, composed of five members, and this section provides that the treasurer of the manufacturing company shall be ex officio a member of this committee, and its chairman. Section 3 provides that the contributing members of the association shall select three members of this joint advisory committee, and the manufacturing company two, and that its members shall hold for a year, and until their successors are elected according to the regulations. It also provides for stated and called meetings of the committee. Section 4 makes the manufacturing company the custodian of the funds of the association, and responsible for their safe-keeping, but not liable for any of its contracts or obligations beyond its funds in its hands. It also makes the treasurer of the manufacturing company treasurer of the relief fund of the association. But the investment of its funds was put in the hands of the manufacturing company. Section 5 states that the association is in no sense organized for profit, and that it is not a legal body, and that no liability is imposed upon its members beyond monthly dues; but it provides that the funds of the association shall be liable for the benefits offered by it to its members. Section 7 is as follows: "The association being purely mutual and for the sole benefit of the employees, it is understood that, if the membership should fall below a sufficient number to make the monthly dues on the part of the employees less than $100 per month for three successive months, the association will disband, and any funds remaining in the hands of the treasurer at the time shall be held subject to the order of the advisory committee, for the benefit of those who were members not in arrears for dues at the time of the suspension, subject to the regulations governing such benefits." Under section 9 no one not in the employ of the manufacturing company can become or remain a

member or be entitled to benefits. Under section 19, a member leaving the employ of the manufacturing company, and having complied with all its rules, and who had not received any benefit from the association, is entitled to have returned to him 50 per cent of all dues paid in by him during the year in which he leaves. Section 20 provides that any member leaving the employ of the manufacturing company without complying with its rules will not be entitled to receive any return of dues, whether he has or has not received benefits. Section 21 provides that any member discharged from the employ of the manufacturing company for any cause, if the case be mild, shall receive back 33⅓ per cent of the dues paid in by him during the year in which the discharge is made; if discharged for a serious default, only 25 per cent; and if the cause of his discharge is flagrant, nothing. And the advisory committee is invested with power, after investigation, of deciding the character and nature of the ground of his discharge. Under section 23, the treasurer can pay no benefit unless it is approved by each member of the advisory committee or a majority thereof, which is to be evidenced by a written order duly signed. Under section 24, the relief fund of the association is to be formed and maintained by voluntary monthly payments by members of the association, and $100 a month by the manufacturing company, if the contributions monthly of the members amount to that sum, or by the payment by the company of a sum equal to the contributions of the operative members. Section 29 provides that no change shall be made in these regulations unless first proposed by the advisory committee, and acted on formally by the association, and then approved by the board of directors of the manufacturing company.

Complainant, Atnip, was an employee of the company for a number of years, and was a member of the association. He paid his monthly dues of $1 until about the time he filed this bill. He had received in sick benefits $33.50. The manufacturing company was not operating its plant when the bill was filed. It had, temporarily, shut down. It resumed operations in June after the bill was filed. Complainant returned to work when the company resumed operations, and was told by Goodwin, through an agent, that he was not wanted, and the overseer was instructed to give him his time. No reason was given for his discharge. It is inferred, from the whole tenor of the evidence in the record, that his services were no longer desired because of his activity in seeking a dissolution of the association and a distribution of its funds. The proof tends to show that members hesitated, or were afraid, to take active steps to dissolve the association, in view of the attitude of the officials in control of the manufacturing company, and for the reason that they apprehended it might result in their dismissal from the employment of the company, although there is no direct or certain evidence that the company or its officials used any threats or directly attempted any coercion in the matter. Several years ago the monthly contributions of members of the association, operatives of the company, fell below $100, and for more than three months before the bill was filed the monthly dues paid into its relief fund did not exceed $30 or $40. For a year or more, while the monthly dues were thus under $100, complainant, with knowledge of this fact, continued a member of the association, paid his dues, and participated in its affairs. The manufacturing company ceased to make donations or to pay anything to the funds of the association in October, 1891. Up to

this time it had paid into the funds $5,692. In February, 1890, the dues of the members had fallen below $100 per month, and at no time since have their monthly dues amounted to this sum. The total dues received by the association from members between October 31, 1891, and June, 1897, amounted to about $3,500. Its total receipts from dues and interest on investments between these dates aggregated $4,609.51.

In February, 1896, a petition was signed by a number of members looking to a dissolution of the association and the distribution of its funds. The membership, at that time, was 31 or 32. A meeting was called to consider the propriety of disbanding the association, February 29, 1896. A meeting was held. Goodwin was called upon, and asked to preside over this meeting. He was an officer of the manufacturing company. After some demur on his part, and saying that he was not a member of the association, and that they should select one of their own members, he was induced to preside. From the evidence, he was elected chairman of the meeting without objection or opposition. There is no proof that he attempted, as chairman, to browbeat or dictate to the members of the meeting as to the action they should take. He did say, however, when he was informed that the purpose of the meeting was to take action looking to the dissolution of the association and the distribution of its funds among its members, that, in his opinion, under the rules of the association, the funds were under the control of its advisory committee, to be used for the ends stated in its by-laws, and that no distribution of the fund among the members could be made. This opinion of Goodwin, it seems, was acquiesced in by the meeting, and, after several motions, it resolved to let the association proceed as it had in the past. Since that time several members have been taken into the association. It appears, also, so far as is disclosed by the record, that there is no desire on the part of a majority of the continuing members of the association, operatives of the defendant company, to have a dissolution of the association and a distribution of its funds.

While the regulations of the association were obviously drawn with guarded care, and so framed as to give the manufacturing company the final and ultimate power over its funds, it does not appear, from the evidence in the record, that the manufacturing company has ever attempted to misuse its funds, or to divert them to any purpose not authorized by its cause, and in the contemplation of all parties when it was organized, or in contemplation of parties joining it since. There is, as before intimated, evidence tending strongly to show that the manufacturing company was not favorably inclined towards employees, members of the association, who saw proper to take steps to disband it and have a distribution of its funds.

We are of opinion, from the facts appearing in the record, that complainant is not entitled to the decree he seeks, and which the chancellor granted. The learned chancellor, we infer from his decree, proceeded on the theory that, under section 7 of the regulations of the association, any member of it had the right to demand a distribution of its funds when the monthly dues of the company's operatives, members of it, fell below $100 for three successive months, although a majority of the members, or all of them, except the demanding member, wanted it to continue in existence and operation. If his honor went on this ground, we can not concur in his opinion. At the most,

on this theory, all the excepting member could demand would be his proportion of the fund on hand at the time. Under the rules, the category in respect to dues suggested did not, of itself, work a dissolution of the association, and it was competent for a majority of its members to continue it, notwithstanding the dues had fallen below the sum fixed, for the period stated. Voluntary associations, of the character of the one before us in this case, are not partnerships, either between their members or as to the public or third persons, unless made so by some statute. The jurisdiction of courts of equity over them does not, therefore, rest upon the ground that they are partnerships; and it follows, furthermore, that they are not, as in case of partnerships, authorized to decree their dissolution, and a distribution of funds among the members, because of the expulsion of a member, or because of such dissensions among their members as would authorize such action in case of partnerships. But, while the above rule is true, it is also true that equity will intervene upon a proper application, and protect the property rights of members in these associations. It may be conceded, and so it has been held, that a court of equity may restrain an association from further operation where its officers have been guilty of illegal conduct, and an injunction is necessary to protect its assets from further wrongful waste or administration. But this case does not rest nor proceed upon the theory of any waste or any illegal management of the association or its fund, and, if the bill were predicated on this theory, it is not sustained by the proof. Nor does the complainant sue for the benefit of all the members to enforce a right of the association.

It is argued that, under the rules of this association, a status or situation existed authorizing any member to demand its disbandment and the distribution of its fund when the monthly dues of its members fell, for three successive months, below $100. The answer to this contention is twofold. In the first place, conceding that the by-law authorized what is claimed in the argument, it is not self-executing, as we have before stated; and, in the second place, it could be waived or set aside by the members, so as to allow the association to continue in existence and operation, and thus keep intact its funds, at least as to the members assenting to its continued existence and operation, and, in such case, no one could demand his proportion of the fund, except a dissenting member, even if he could. It may be further answered to the contention suggested that the by-law of the association in question is easily susceptible, when taken together with all the other regulations, of a construction different from that involved in the contention; and that courts, as a general proposition, are disposed to construe the rules of such association as they are construed by the associations themselves or their own tribunals, where such construction is not in conflict with the law of the land or some established public policy.

Another objection to the maintenance of this suit is that complainant does not appear to have appealed to the association, or its constituted agency or tribunals, to get his rights, whatever they are, in its assets. It may be very true, as forcibly argued, that, under the wording of the rules of this association, the final power is lodged in the manufacturing company over the fund, and that, under this construction of the rules, a club is put in the hands of the manufacturing company to intimidate

its employees, members of the association, from asserting their rights to its assets. It is only necessary to say that, in our opinion, when a case is presented showing that this manufacturing corporation attempts to thus pervert its relation to this association, and browbeat its employees into surrendering their rights as citizens, and rights as members of the association, to see that its trust fund is used for the purposes for which it was created, a court of equity will promptly lay its hands on it, and remove it from its custody of the fund, and make it account for it. No such case is made in the bill, and none in the evidence. For the reasons stated, we are of the opinion that the decree of the chancellor is erroneous, and must be reversed, and the bill be dismissed, with costs; and it is so ordered.

SEAMEN—LIEN FOR WAGES—*The Glenesslin, 96 Federal Reporter, page 768.*—This was a suit in rem, brought in the United States district court for the district of Oregon, to recover wages and expenses incurred by the libelants on the faith of an engagement to ship as seamen on the ship Glenesslin.

The decision dismissing the libel was rendered by District Judge Bellinger September 14, 1899, and his opinion reads as follows:

The libel alleges that on the 19th day of June, 1899, the master of the Glenesslin, through his agents, employed libelants as seamen to serve upon the ship from the port of Portland to a port in South Africa; that libelants were at the time in San Francisco, and that it was understood and agreed that the ship would pay the cost of their transportation from San Francisco to Portland, and the cost of their board and lodging from said 19th of June until they should go aboard said ship; that thereafter the master employed other sailors. The libel is brought to recover the cost of passage from San Francisco, and the cost of board and lodging, and also for wages for the voyage for which the libelants expected to ship.

The testimony shows that Frank Turk and Patrick Lynch were engaged by the master of the Glenesslin to go to San Francisco and secure a crew for the ship, and that they engaged libelants for that purpose and brought them to Portland. Turk and Lynch advanced the money required for libelants' traveling expenses. No shipping articles were signed, and there is no claim that services were rendered.

Where services have not, in fact, been rendered, there can be no lien as for wages, except in the cases provided for in section 4527 of the Revised Statutes, where a shipping agreement has been signed, and the seaman is thereafter unwarrantably discharged by the master. In such cases a sum equal to one month's wages may be recovered. This is not such a case. There is no question in the case as to whether Turk and Lynch, who went to San Francisco at the instance of the master, and rendered service and expended money in bringing a crew to Portland for the Glenesslin, are entitled to a lien for such services and expenditures. They are not parties, and nothing is claimed on their account. The libel is dismissed.

SEAMEN—LIEN OF FISHERMEN ON VESSEL, ETC.—*The Carrier Dove, 97 Federal Reporter, page 111.*—This case was heard in the United States circuit court of appeals for the first circuit, on appeal from the United States district court for the district of Massachusetts.

The facts in the case are not material, and but one point in the decision of the court of appeals rendered October 27, 1899, is of importance as a "labor decision." It is stated as follows in the opinion of the court, which was delivered by District Judge Webb:

Fishermen are seamen, having uses and customs peculiar to their business, but are at the same time, except as modified by their peculiar contracts, express or implied, protected by the law as other seamen are. For their wages they can look to the vessel, her master, and ordinarily her owners.

LAWS OF VARIOUS STATES RELATING TO LABOR ENACTED SINCE JANUARY 1, 1896.

[The Second Special Report of the Department contains all laws of the various States and Territories and of the United States relating to labor in force January 1, 1896. Later enactments are reproduced in successive issues of the Bulletin from time to time as published.]

ARKANSAS.

ACTS OF 1899.

ACT No. 102.—*Weighing of coal at mines.*

SECTION 1. It shall be the duty of every corporation, company or person engaged in the business of mining and selling coal by weight or measure, and employing twenty or more persons, to procure and constantly keep on hand at the proper place, the necessary scales and measures and whatever else may be necessary, to correctly weigh and measure the coal mined by such corporation, company or person, and it shall be the duty of the mine inspector to visit each coal mine operated therein, and where such scales and measures are kept, at least once in each year, and test the correctness of such scales and measures. The owner or operators of such coal mine, or any two or more of the miners working therein, may, in writing, require his attendance at the place where such scales and measures are kept, at other times in order to test the correctness thereof, and it shall be his duty to comply with such request as soon as he can after receiving such request.

SEC. 2. All coal mined and paid for by weight shall be weighed before it is screened, and shall be paid for according to the weight so ascertained, at such price per ton or bushel as may be agreed on by such owner or operator and the miners who mined the same: *Provided*, That nothing in this act shall be so construed as to prevent said owner or operator from having the right to deduct the weight of any sulphur, slate, rock or other impurities contained in the car and not discoverable until after the car has been weighed.

SEC. 3. Any corporation or person violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall, for each offense, be fined not less than twenty-five dollars ($25) and not more than five hundred dollars ($500); and the officers, agents or employees of the corporation or company whose duty it was to do or perform the acts, or to cause it to be done and performed, which is the subject of the indictment, may be indicted jointly with said corporation or company, and upon conviction thereof be fined in any sum not less than twenty-five dollars ($25) nor more than five hundred dollars ($500).

SEC. 4. All laws and parts of laws in conflict with this act are hereby repealed, and this act shall take effect ninety (90) days after its passage.

Approved April 10, 1899.

ACT No. 111.—*Convict labor—County convicts.*

SECTION 1. Section 931 of Sandels & Hill's Digest is hereby amended so as to read as follows: In case the county court or judge thereof is unable to make a contract with any person in the county as provided in section 910, the court or judge thereof may contract for the work of its prisoners with some person in some other county of the State, according to the provisions of this act; and if the county court or judge thereof be unable to make a satisfactory contract with some person of some other county, then the county court or judge thereof may order the prisoners to be worked on the public roads, bridges, levees, or any other public improvements of the county, or perform any other lawful labor for the benefit of the county, under such rules and regulations not inconsistent with the provisions of this act, as the county court or judge thereof may prescribe: *Provided*, That plenary power is hereby conferred upon the county levying court, at its regular meeting, to authorize the county court or the judge thereof in vacation, to purchase in the name and for the benefit of the

county, a tract of land not to exceed six hundred and forty (640) acres, or the levying court shall have the power, if it deem best, to direct the court or the judge thereof in vacation, to lease in the name and for the benefit of the county, a farm upon which the county prisoners shall be worked under the provisions of this act.

SEC. 2. Section 932 of Sandels & Hill's Digest is hereby amended so as to read as follows: In the event that the county court or judge thereof shall order the said prisoners to be worked on roads, bridges, levees, or other county improvements, as provided in the preceding section, it shall be the duty of the court or judge thereof to appoint some suitable person as superintendent to take charge of, manage and control the labor of said prisoners, who shall for the purpose of working them, be authorized to employ such guards, or adopt such means to prevent escapes as may be necessary; and he shall have all the power of punishing for refusal to work herein given to contractors, and upon the order of the county judge the sheriff shall deliver to said superintendent all such prisoners in his custody, and receive them back from him whenever he shall return them for any purpose to the jail; and in case no contract as provided in sections 910 and 931 is made by the county court or judge thereof prior to the second Monday of January of any year, then the said court or judge thereof must make the order, as provided in section 931 for working the prisoners on the public roads, bridges, levees, and other public improvements of the county.

SEC. 3. For the purpose of further enforcing this act, the county court or judge thereof shall designate in its order the road districts which shall be first worked under this act, and the prisoners shall work in the district or districts so designated until the road or roads therein shall be put in perfect condition, and the disposition of these prisoners while they are liable to work the roads under this act, and the order of the work shall be in the discretion of the county court or the judge thereof: *Provided*, That the convict defendant shall receive seventy-five (75) cents per day including Sunday, for each day he is so hired out to such contractor, in excess of any liability for care or sickness.

SEC. 4. The county court at its annual meeting for making appropriations, shall make the necessary appropriations to carry out the purposes of this act: *Provided*, That not more than ten thousand dollars ($10,000) shall be appropriated for any one year.

SEC. 5. All laws and parts of laws in conflict herewith are hereby repealed, and this act shall take effect and be in force from and after its passage.

Approved April 12, 1899.

ACT No. 152.—*Convict labor—County convicts.*

SECTION 1. It shall be the duty of the county contractor, or persons having county prisoners, to safely keep said prisoners and provide them with sufficient wholesome food and clothing, medicine and medical attention, and work said prisoners on a farm or at any lawful labor, and shall not permit them to go at large or control their own labor, and any violation of this section shall be deemed a misdemeanor, and upon conviction thereof in any court having jurisdiction, the said contractor or person hiring said county prisoners shall be fined in any sum not less than the cost and penalty of any such prisoner remaining unpaid, and so permitted to go at large and control his own labor.

SEC. 2. All laws and parts of laws in conflict herewith are hereby repealed, and this act shall take effect from and after its passage.

Approved May 8, 1899.

ACT No. 172.—*Payment of wages.*

SECTION 1. Hereafter it shall be, and it is, unlawful for any milling or manufacturing company, or any other person, corporation or company employing persons to labor for them in the State of Arkansas, to discount the wages of their employees or laborers when payment is made or demanded before the regular pay days, more than at the rate of ten per centum per annum from the date of payment to the regular pay day, and that all laborers shall be paid in currency at the place of business of the company, person or corporation so employing such labor in the State; unless the laborer elects to take drafts or checks in lieu of currency for pay.

SEC. 2. Any evasion or violation of section 1 of this act shall be usury, and a misdemeanor and the person, company or corporation or their agents, violating the same shall be fined in any sum not less than ten dollars nor more than five hundred dollars, and the entire property of the person, company or corporation shall be subject to the payment of the fine and costs.

SEC. 3. All laws and parts of laws in conflict herewith are hereby repealed, and this act shall take effect and be in force within ninety days after its passage.

Approved May 8, 1899.

COLORADO.

ACTS OF 1899.

CHAPTER 96.—*Exemption from execution, etc.*

SECTION 1. The following property, when owned by any citizen of the State of Colorado, in addition to the property now exempt by law, shall be exempt from levy and sale upon any execution or writ of attachment or distress for rent, and shall continue so exempt, to wit: One bicycle and one sewing machine.

Approved April 8, 1899.

CHAPTER 103.—*Hours of labor—Mines and smelters.*

SECTION 1. The period of employment of workingmen in all underground mines or workings shall be eight (8) hours per day, except in cases of emergency, where life or property is in imminent danger.

SEC. 2. The period of employment of workingmen in smelters, and in all other institutions for the reduction or refining of ores or metals, shall be eight (8) hours per day, except in cases of emergency, where life or property is in imminent danger.

SEC. 3. Any person, body corporate, agent, manager or employer, who shall violate any of the provisions of sections one and two, of this act, shall be deemed guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment not more than six months, or by both fine and imprisonment.

Approved March 16, 1899.

CHAPTER 119.—*Mine regulations.*

SECTION 1. Section 1 of an act entitled "An act to create a Bureau of Mines," etc., approved March 30, 1895, be and the same is hereby amended to read as follows:

SECTION 1. There shall be and is hereby established in this State a department to be known as "The Bureau of Mines of the State of Colorado," the principal office of which shall be maintained at the State capitol, in the city of Denver.

SEC. 2. Section 2 of said act be and the same is hereby amended to read as follows:

SECTION 2. It shall be the duty of the governor to appoint a citizen of this State, having had not less than seven (7) years practical experience in mining in the State of Colorado, together with a practical and scientific knowledge of mining, metallurgy, mineralogy and geology, to the office of commissioner of mines, to hold the said office for the term of four (4) years, or until the appointment and qualification of his successor, as provided in section 1 of article 16 of the constitution of the State of Colorado, who shall take and subscribe the oath of office prescribed by the constitution; and he shall give bond to the State in the sum of $20,000 to be approved by the governor of the State, conditioned upon the faithful discharge of his duties.

The governor shall have power at any time to remove from office the commissioner of mines, for incompetency, neglect of duty or abuse of the privileges of his office.

SEC. 3. Section 6 of said act be and the same is hereby made section 3 of this act and amended to read as follows:

SECTION 3. The commissioner of mines shall, with the consent of the governor, appoint two inspectors of practical experience in mining, citizens of the United States and legal voters of the State of Colorado, and having had not less than seven (7) years practical experience in mining in the State of Colorado, who shall hold their office for the term of two years, and whose duties shall be as hereinafter specified and he shall appoint a clerk who must have a general knowledge of mineralogy and shall act as assistant curator for the State mineral collection; and before entering upon the discharge of their duties they shall subscribe to the oath required by the constitution, and each give bond to the State in the sum of $5,000 to be approved by the governor, conditioned upon the faithful performance of their duties, respectively; said bonds shall together with the commissioner's bond, be deposited with the secretary of state. The commissioner of mines may appoint a stenographer, who shall act as assistant clerk, and such other competent assistants as he may deem necessary for the carrying out of the object of this act: *Provided*, Appropriation be made therefor, and shall have the power, with the consent of the governor, at any time, to remove the inspectors, clerks or other assistants for incompetency, neglect of duty or abuse of the privileges of his office.

SEC. 4. It shall be the duty of the inspectors to examine and report to the commissioner the condition of the hoisting machinery, engines, boilers, whims, cages, cars, buckets, ropes and cables in use in all the metalliferous mines in operation in the

State, the appliances used for the extinguishment of fires, the manner and methods of working and timbering the shafts, drifts, inclines, stopes, winzes, tunnels and upraises through which persons pass while engaged in their daily labors, all exits from the mine and how the mine is ventilated, together with the sanitary condition of the same, and also how and where all explosives and inflammable oils and supplies are stored, also the system of signals used in the mine. He shall not give notice to any owner, agent, manager or lessee of the time when such inspection shall be made.

SEC. 5. Section 5 of said act be hereby made section 5 of this act and amended to read as follows:

SECTION 5. The commissioner of mines may as appropriations may be made therefor, from time to time, appoint deputy inspectors in the various mining camps or districts to investigate or report on accidents, or appoint such other competent assistants as he may deem necessary and proper for the carrying out of the object of this act; for the purpose of making more extended geological researches and surveys concerning the mineral districts of the State; the appointments of said deputy inspectors or assistants to become void upon the performance of the specific things or acts designated by the commissioner in their said appointment; but the entire expenses of the bureau must not in any one year be greater than can be paid out of the fund or appropriation provided therefor.

SEC. 6. Section 4 of said act be hereby made section 6 of this act and be amended to read as follows:

SECTION 6. The secretary of the State board of capitol managers shall provide suitable and ample rooms in the State capitol building for the use of said bureau and shall provide the necessary fuel, lights and appurtenances to the proper and creditable management of said office; said office shall be deemed a public office, and the records, books and papers thereof or on file therein, shall be deemed public records of the State; all books and documents and all other articles whatever in the office of the commissioner of mines, shall be transferred by him to his successor in office, who shall give him a receipt for the same. The commissioner shall keep and maintain a complete list and record of all articles, papers and documents received by him and belonging to the said office.

SEC. 7. Section 3 of said act be hereby made section 7 of this act and amended to read as follows:

SECTION 7. It shall be the duty of the commissioner of mines, as he has opportunity and means, aided by the other officers, except the inspectors, of the bureau, working under his instructions, to collect and preserve for study and reference, specimens of all the geological and mineralogical substances including mineral waters found in the State, especially those possessing economic or commercial value, which specimens shall be marked, arranged, classified and described, and a record thereof preserved, showing the character thereof and the place from whence obtained; to collect and in like manner preserve in his office minerals, rocks and fossils of other States, Territories and countries; to collect and make a part of the records of his office the geological surveys and reports bearing upon the mining industry heretofore made by other officers of the State or by the United States Government; to collect and record all data and records giving the history and showing the progress of the mining industry of the State from the earliest date up to the present time; to examine, report and record the geological formation of each important mining district and each important mine, giving the name of the mine, altitude, location, name of owners, character of vein development, character of walls or enclosing rocks, character and extent of ore veins or deposits, methods of ore extraction, powder [power] used, fuel used, water used in boilers, pressure carried, cost of fuel, cost of timbers, cost of transporting supplies to mine, cost per ton for transporting ore to market, method of treatment, cost of treatment per ton, average cost of sinking per foot, average cost of drifting per foot, average number of men employed, wages paid and hours worked, and all other information that will tend to give a correct idea of the expense and serve as a guide to profitable mining and milling of ore; to investigate and report and record the successfully used methods for the recovery of the precious metals, describing in detail mechanical operations of all important milling and reduction plants and results obtained; to investigate, report and record the advancement made in the application of electricity, comperssed [compressed] air, water power and steam as babor [labor] saving devices to all branches of mining operations; to collect statistics upon smelting, concentrating, milling and dressing metalliferous ores, and upon all the mineral products of the State for reference and study; to distribute reliable information regarding the product, available supply, location, character and adaptability for economic purposes of the resources of Colorado in coal, coal oil, asphalt, iron, building stone, slates, marble, fire clays, cements, pottery and porclain [porcelain] clays, asbestos, mica and the various mineral waters, and such other items within the provence [province] of this bureau as in the judgment of the

commissioner of mines may be advisable to procure standard works on the mining industry, smelting, concentrating, milling and dressing metalliferous ores, mining engineering, geology, mineralogy and other subjects which can aid in the study and promote knowledge of all who are interested in mining or manufacturing of any of the mineral products of this State; and the commissioner of mines shall give receipt, when demanded, for all enumerated herein to the person from whom he receives them; to make or cause to be made, with the approval of the governor and under the direction of some office of the bureau, exhibits of the mineral resources and products of the State, at such industrial exhibitions held in this or other States or countries, as may be deemed advisable or desirable, and for which due appropriations shall have been or may be provided.

SEC. 8. Section 7 of said act be and the same is hereby made section 8 of this act, and amended to read as follows:

SECTION 8. The commissioner of mines, inspectors, or either of them, shall not act as manager, or agent or lessee, for any mining or other corporation during the term of his office, but shall give his whole time and attention to the duties of the office to which he has been appointed. No office of this bureau nor any agent or person in any way connected therewith, shall make a report of any mine or mining property with the intent to promote or aid in the sale or other conveyance thereof, and any such officer, agent, or person violating this provision shall, upon conviction thereof, pay a fine of not less than five hundred ($500) dollars, nor more than five thousand dollars ($5,000) or be imprisoned in the State penitentiary not less than one (1) nor more than three (3) years or both in the discretion of the court. The commissioner shall, on receipt of reliable information relating to the health and safety of the workmen employed in any metalliferous mine, mill or reduction plant in the State, or whenever he deems such inspection necessary, examine or instruct one of the inspectors to examine and report to him the condition of the same. The owner, agent, manager or lessee shall have the right to appeal to the commissioner on any difference that may arise between such parties and the inspector. On receipt of notice of any accident in a mine, mill or reduction plant, whether fatal or not, the commissioner shall inquire into the cause of such accident.

SEC. 9. It shall be the duty of the commissioner of mines to biennially make report to the governor, showing the amount of disbursements of the bureau under his charge, the progress made and such statistical information in reference to mines, mining, milling and smelting as shall be deemed important, and shall transmit copies of said report to the general assembly at the biennial session. There shall be printed at least one thousand (1,000) copies of said report for distribution and said reports shall contain a review of the work of the bureau.

The commissioner may, from time to time, with the consent of the governor, as approperations [appropriations] may be made therefor, compile, publish and distribute bulletins upon subjects, districts and counties; such bulletins, when treating of a district or county, shall give in detail the history, geology, mines, mills, process of treatment and results, together with a classification and location of mines and prospects together with maps of the same; one thousand (1,000) copies shall be distributed free to State and county officers, public libraries, newspapers, magazines and exchanges of the bureau, and the remainder sold at cost of printing.

SEC. 10. Section 9 of said act is hereby made section 10 of this act and amended to read as follows:

SECTION 10. Every owner, agent, manager or lessee of any metalliferous mine or metallurgical plant in this State shall admit the commissioner or inspector on the exhibition of his certificate of appointment, for the purpose of making examination and inspection provided for in this act, whenever the mine is in active operation and render any necessary assistance for such inspection. But said commissioner or inspector shall not unnecessarily obstruct the working of said mine or plant. The refusal of the owner, agent, manager or lessee to admit the commissioner or inspector to such mine or plant to lawfully inspect the same, shall upon conviction, be deemed a misdemeanor, and shall be subject to a fine of not less than fifty dollars ($50) nor more than three hundred dollars ($300) or be imprisoned not less than one (1) nor more than three (3) months or both such fine and imprisonment.

SEC. 11. Section 11 of said act be and the same is hereby made section 11 of this act and amended to read as follows:

SECTION 11. The commissioner and inspectors shall exercise a sound discretion in the enforcement of this act and if they shall find any matter, thing, or practice in or connected with any metalliferous mine or metallurgical plant to be dangerous or defective, so as to, in their opinion, threaten or tend to the bodily injury of any person, the commissioner or inspector shall give notice in writing thereof to the owner, agent, manager or lessee of such mine or plant, stating in such notice the particulars in which he considers such mine, or plant, part thereof or practice to be dangerous

or defective; and he shall order the same to be remedied; a copy of said order shall be filed and become a part of the records of the bureau of mines, and said owner, agent, manager or lessee shall, upon compliance of said order immediately notify the commissioner of mines in writing. Upon the refusal or failure of said owner, agent, manager or lessee to report within reasonable length of time, said owner, agent, manager or lessee shall be subject to a fine of not less than fifty dollars ($50) nor more than three hundred ($300) dollars for each and every such refusal or failure.

SEC. 12. Section 10 of said act be and the same is hereby made section 12 of this act and amended to read as follows:

SECTION 12. If the commissioner, inspectors, or either of them, shall reveal any information in regard to metallurgical processes, ore bodies, shoots [chutes] or deposits of ore or location, course or character of underground workings or give any information or opinion respecting any mine or metallurgical process, obtained by them in making such inspection, except in the way of official reports filed for record, as hereinbefore provided, on conviction thereof he or they shall be removed from the office and fined in a sum not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000).

SEC. 13. Section 12 of said act be and the same is hereby made section 13 of this act and amended to read as follows:

SECTION 13. In case the owner, agent, manager or lessee, after written notice being duly given, does not conform to the provisions of this act, or disregards the requirements of this act, or any of its provisions, or lawful order of the commissioner or inspector made hereunder, any court of competent jurisdiction, may, on application or information of the commissioner of mines, by civil action in the name of the people of the State of Colorado, enjoin or restrain the owner, agent, manager or lessee from working the same until it is made to conform to the provisions of this act; and the costs of action paid by defendant, and such remedy shall be cumulative, and shall not effect [affect] any other proceedings against such owner, agent, manager or lessee authorized by law for the matters complained of in such action.

SEC. 14. Section 13 of said act be and the same is hereby made section 14 of this act and amended to read as follows:

SECTION 14. Any owner, agent, manager, or lessee having charge or operating any metalliferous mine or metallurgical plant, whenever loss of life or accident serious enough in character to cause the injured party to stop work for two consecutive days and connected with the workings of such mine or metallurgical plant, shall occur, shall give notice immediately and report all the facts thereof to the commissioner of mines. The refusal or failure of the said owner, agent, manager or lessee to so report within reasonable length of time shall be deemed a misdemeanor and shall upon conviction be subject to a fine of not less than fifty dollars ($50) nor more than three hundred dollars ($300) or be imprisoned not less than one or more than three months, or by both such fine and imprisonment. The commissioner of mines upon receipt of notice of accident shall investigate and ascertain the causes and make or cause to be made a report, which report shall be filed in his office for future reference.

SEC. 15. The commissioner of mines shall receive for his services a salary of twenty-five hundred dollars ($2,500) per annum to be paid as other officers of the State are paid and shall also receive his necessary traveling expenses when traveling on the business of his office, not to exceed the sum of one thousand dollars ($1,000) per annum. The inspectors shall each receive the sum of fifteen hundred dollars ($1,500) per annum and actual traveling expenses, not to exceed the sum of one thousand dollars ($1,000) per annum. The clerk or assistant curator shall receive the sum of fifteen hundred dollars ($1,500) per annum; the stenographer or assistant clerk shall receive one thousand dollars ($1,000) per annum. The whole of said salary and expenses to be paid out of the bureau of mines fund hereinafter provided for and not otherwise.

The commissioner of mines shall have at his disposal the sum of two thousand dollars ($2,000) for the fiscal years of 1899 and 1900, and shall, in his annual report, itemize the expenditures made from this fund.

SEC. 16. Section 14 of said act be and the same is hereby made section 16 of this act and amended to read as follows:

SECTION 16. The commissioner of mines is hereby authorized, with the approval of the governor, to draw upon the funds appropriated by this act, from time to time, to pay the salaries and traveling expenses of himself and inspectors and the salary of the clerk and other assistants, and printing of bulletins hereinbefore provided, and to defray the necessary expenses of his office; and the State auditor is hereby required to issue his warrant on the State treasurer for such payments or expenses as they may accrue, and in all accounts rendered or presented, on account of the bureau of mines, the commissioner shall be required to make vouchers in duplicate, one of which shall be filed in his office. He is hereby authorized to procure such instruments and

apparatus from time to time as may be necessary to the proper discharge of the duties under this act, not to exceed the amount appropriated for incidental and operating expenses.

SEC. 17. Section 15 of said act be and the same is hereby made section 17 of this act and amended to read as follows:

SECTION 17. For the purpose of carrying out the provisions of this act, there is hereby appropriated out of the funds in the State treasury not otherwise appropriated, the sum of twenty-four thousand dollars ($24,000) for the fiscal years 1899 and 1900, said amounts, including the sum of two thousand dollars ($2,000) for printing, incidental and operating expenses, to be at the disposal of the commissioner of mines, as otherwise provided for.

SEC. 18. Section 18 of said act be and the same is hereby made section 18 of this act.

SECTION 18. It shall be the duty of the commissioner of mines to furnish as far as practicable, to the proper officials of the State School of Mines, such information, plats, surveys, etc., resulting from the researches of his department, from time to time, as said officials may ask or deem advantageous to the advancement of the interest of the State School of Mines.

SEC. 19. Section 19 of said act be, and the same is hereby made section 19 of this act and amended to read as follows:

SECTION 19. The mineral specimens heretofore collected by the bureau of immigration and the World's Fair commissioners are hereby transferred to the custody of the bureau of mines, and if found necessary, the attorney-general shall bring suit to recover the same.

For the purpose of providing the necessary rules and regulations for the government of metalliferous mining in this State, the following section, to be known as section 20, is hereby enacted and made a part of this act:

SEC. 20. First—That explosives must be stored in a magazine provided for that purpose alone; said magazine to be placed far enough from the working shaft, tunnel, or incline to insure the same remaining intact in the event the entire stock of explosives in said magazine be exploded; that all explosives in excess of the amount required for a shift's work must be kept in said magazine; that no powder or other explosive be stored in underground workings where men are employed; that each mine shall provide and employ a suitable device for thawing or warming powder and keep the same in condition for use; that oils or other combustable [combustible] substances shall not be kept or stored in the same magazine with explosives.

Second—That the commissioner of mines shall have authority to regulate and limit the amount of nitro powder stored or kept in general supply stores in mining camps or mining towns where there is no municipal law governing the storage of same.

Third—That oils and other inflamable [inflammable] materials shall be stored or kept in a building erected for that purpose, and at a safe distance from the main buildings, and at a safe distance from the powder magazine, and their removal from said building for use shall be in such quantities as are necessary to meet the requirements of a day only.

Fourth—That no person shall, whether working for himself, or in the employ of any person, company or corporation, while loading or charging a hole with nitro glycerine powder or other explosives, use or emply [employ] any steel or iron tamping bar; nor shall any mine manager, superintendent, foreman or shift boss, or other person having the management or direction of mine labor, allow or permit the use of such steel, iron or other metal tamping bar by employees under his management or direction.

Fifth—That all old timber removed shall as soon as practicable be taken from the mine and shall not be piled up and permitted to decay underground.

Sixth—That no person addicted to the use of intoxicating liquors or under eighteen years of age shall be employed as hoisting engineer.

Seventh—That all hoisting machinery, using steam, electricity, air or hydraulic motive power, for the purpose of hoisting from or lowering into metalliferous mines employees and material, shall be equiped [equipped] with an indicator geared positively to the drum shaft, and so adjusted with dial or slide as to move a target or indicator and thereby at all times show the exact location of the cage, bucket or skip, said indicator to be so placed near to and in clear view of the engineer and to be free of gong, bells or other automatic attachments.

Eighth—That all mines employing steam and other hoisting power, and equipped with cage or skip, shall, when hoisting material from two or more levels, employ a man to be known as a "cager" whose duties shall be to load and unload said cage or skip at said levels and to give all signals to the engineer.

Ninth—That there shall be established by the commissioner of mines a uniform code of signals, embracing that most generally in use in metalliferous mines, and the commissioner shall have the power to enforce the adoption of such code of signals

in all mines using hoisting machinery. The code of signals shall be securely posted, in clear and legible form, in the engine room, at the collar of the shaft and at each level or station.

Tenth—That all mines having but one exit, and the same covered with a building containing the mechanical plant, furnace room, and blacksmith shop, shall have fire protection. Where steam is used, hose of sufficient length to reach the farthest point of the plant shall be attached to feed pump or injector, and the same kept ready for immediate use. In mines where water is not available, chemical fire extinguishers or hand grenades shall be kept in convenient places for immediate use.

Eleventh—That all persons shall be prohibited from riding upon any cage, skip or bucket loaded with tools, timber, powder or other material, except for the purpose of assisting in passing same through shaft or incline, and then only upon special signal.

Twelfth—All persons giving or causing to be given false signals, or riding upon any cage, skip or bucket upon signals that designate to the engineer that no employees are aboard, shall be deemed guilty of a misdemeanor under this act.

Thirteenth—That all shafts more than fifty (50) feet in depth equipped with hoisting machinery shall be divided into at least two (2) compartments, and one compartment to be partitioned off and set aside for a ladderway. The ladders shall be made sufficiently strong for the purpose demanded, and in verticle [vertical] shafts, landings shall be constructed not more than twenty (20) feet apart, said landings to be closely covered, except an opening large enough to permit the passage of a man; said ladders shall be inclined at the most convenient angle which the space allows, and shall be firmly fastened, and kept in good repair. In all incline shafts the landings shall be put in as above described, but a straight ladder on the incline of the shaft. Ladders in upraises and winzes shall be likewise provided and kept in repair, but where winzes connecting levels are used only for ventilation and exit, only one such winze on each level need be equipped.

Fourteenth—That hereafter shafts equipped with buildings and machinery, with only the working shaft for exit, shall be divided into at least two (2) compartments, one of which shall be tightly partitioned off and used for a ladderway as hereinbefore provided for, said ladderway shall be securely bulkheaded at a point at least twenty-five feet below the collar of the shaft, and below this bulkhead, a drift shall be run to the surface, if location of drift is upon side hill, or wall without the building and upraised to the surface, if upon a level. Said ladderway and landings shall be kept at all times in good repair and afford easy mode of escape in event of fire.

Fifteenth—That hereafter all tunnels or adit levels at safe distance from mouth of same shall connect with the surface, and be provided with safe and suitable ladders, and thus afford a means of exit in case of fire destroying buildings over mouth of tunnel or adit level.

Sixteenth—That employees engaged in sinking shaft to [or] incline, shall at all times be provided with chain or other kind of ladder so arranged as to insure safe means of exit.

Seventeenth—That all shaft collars hereafter constructed, shall be covered and so arranged that persons or foreign objects can not fall into the shaft. Where a mining cage is used a bonnet which raises with the cage and falls back into place when the cage decends [descends] shall be used. This bonnet or shaft cover need not be tight beyond what would exclude anything from falling into the shaft that would endanger life, and the cage shall also be equipped with safety clutches and a steel hood, or bonnet, oval in shape, if solid, and if divided in the middle and hinged at the sides, the angles of the sides when closed shall not be less than forty-five degrees, nor the steel less than three-sixteenths [3-16] of an inch thick.

When wooden doors are used, the shaft must be housed in and covered and said doors so constructed as to stand at an angle of not less than forty-five degrees pitch, when closed, hinged at the lower sides, and opening upward, or outward, and said doors shall not be less than four inches in thickness.

Eighteenth—That all stations or levels shall, when practicable, have a passageway around the working shaft, so that crossing over the working compartment can be avoided. At all shaft stations a guard rail or rails shall be provided and kept in place across the shaft, in front of the level, so arranged that it will prevent persons from walking, falling or pushing a truck, car or other conveyance into the shaft. All winzes and mill holes extending from one level to another shall be covered or surrounded with guard-rails, to prevent persons from stepping or falling into the same.

Nineteenth—That where any shaft is sunk on a vein, ore shoot or body, a pillar of ground shall be left standing on each side of the shaft of sufficient dimensions to protect and secure the same, and in no case shall stoping be permitted up to or

within such close proximity to the shaft as to render the same insecure, until such time as the mine is to be abandoned and said pillar withdrawn.

Twentieth—That all abandoned mine shafts, pits or other excavations endangering the life of man or beast shall be securely covered or fenced.

Twenty-first—That any person or persons removing or destroying any covering or fencing placed around or over any shaft, pit or other excavation, as hereinbefore provided, shall be deemed guilty of a misdemeanor under this act, and upon conviction thereof in any court of competent jurisdiction shall be fined in a sum of not less than fifty dollars ($50) or more than three hundred dollars ($300) or imprisonment in the county jail for six (6) months or by both fine and imprisonment.

Twenty-second—That any person or persons operating any metalliferous mine or mill and employing five or more men, shall report the same to the bureau of mines and state when work is commenced and when stopped, and mines working continuously shall report on or before December 1, of each year, together with the names of the owners and managers or lessee in charge of said work, together with the post-office address, the name of the claim or claims to be operated, the name of the county and mining district, together with the number of men employed, directly or indirectly, the same being classified into miners, trammers, timbermen, ore assorters, mill men, teamsters, etc. The necessary blanks to carry out the provisions of this section shall be furnished upon application by the commissioner of mines.

Twenty-third—That any owner, lessee, manager, superintendent or foreman in charge of any mettaliferous [metalliferous] mine who shall willfully misrepresent or withhold facts or information from any inspector or other officer of this bureau regarding the mine, such as length of time timbers have been in place, or making any misrepresentation tending to show safety when the reverse is true, shall be deemed guilty of a misdemeanor, and upon conviction thereof in any court of competent jurisdiction, shall be fined in any sum not less than one hundred dollars, nor more than three hundred dollars.

Twenty-fourth—That strangers or visitors shall not be allowed underground in any mine, unless accompanied by some owner, official or employee deputized to accompany same.

Twenty-fifth—Notice of the maximum number of men permitted to ride upon or in the cage, skip or bucket, at one time, shall be posted at the collar of the shaft and at each level. All men or employees riding upon or in an overloaded cage, skip or bucket, as provided in notice so posted, shall be guilty of a misdemeanor, and upon conviction in a competent court, shall be fined not less than five dollars, nor more than fifty dollars for each and every offense.

Twenty-sixth—The commissioner of mines or inspectors under this act shall have power to make such examination and inquiry as is deemed necessary to ascertain whether the provisions of this act are complied with; to examine into and make inquiry respecting the condition of any mine, mill or part thereof, and all matters or things connected with or relating to the safety of the persons employed in or about the same; to examine into and make inquiry respecting the condition of the machinery or mechanical device, and if deemed necessary, have same tested; to appear at all coroner's inquests held, respecting accidents, and if deemed necessary, call, examine and cross-examine witnesses; to exercise such other powers as are necessary for carrying this act into effect.

Twenty-seventh—Any person, owner, agent, manager or lessee operating a metalliferous mine or mill in this State, who fails to comply with the provisions herein set forth, shall be deemed guilty of a misdemeanor against this act, and, when not otherwise provided, shall be liable to the penalty prescribed in section 13 of this act, or to a fine of not less than twenty-five dollars ($25), nor more than three hundred dollars ($300), for each and every provision not complied with, or both, at the discretion of the court.

SEC. 21. The secretary of state shall provide the bureau of mines with a seal, the same to be marked "The Bureau of Mines of the State of Colorado," and bear the coat of arms of the State. The commissioner of mines is hereby empowered to affix seal to all certified copies of sections of record and shall charge the legal rate allowed for such service. Any and all moneys thus collected shall be transferred to the proper officer and by him credited to the bureau of mines fund.

SEC. 22. All justices of the peace and county courts in their respective counties, shall have original jurisdiction in prosecution for the violation of sections nine (9), ten (10), thirteen (13), nineteen (19) and twenty (20), of this act, with the right to appeal from judgment of justices of the peace to county courts in their respective counties, under the same conditions as in civil cases; and in all trials before justices of the peace and in county courts the defendant shall be entitled to a trial by jury as in other misdemeanor cases. District courts in their respective districts shall have

original jurisdiction upon information or indictment in all prosecutions for violations of this act.

SEC. 23. Sections eight (8), sixteen (16) and seventeen (17) of said act be and the same [are] hereby repealed.

SEC. 24. Section 20 of said act be and the same is hereby made section 24 of this act.

SEC. 25. An act dividing the State into metalliferous mining districts and appointing an inspector of mines, approved April 1, 1889, and all other acts inconsistent herewith are hereby repealed.

SEC. 26. Section 21 of said act be and the same is hereby made section 26 of this act.

Approved April 10, 1899.

CHAPTER 124.—*Protection of wages of laborers, etc., on public works.*

SECTION 1. Hereafter it shall be the duty of councils of cities, trustees of incorporated towns, boards of commissioners of counties, and boards of directors of school districts within the limits of municipal corporations, which have contracted for the construction of public works, to with hold [withhold] payment of moneys due the contractor for the construction of such public works, to satisfy the claims of laborers, subcontractors and others performing labor or furnishing materials upon or for such public works, in the manner hereinafter prescribed.

SEC. 2. Before any payment shall be made to the contractor as may be provided for in the contract for the construction of such public works, the contractor shall present to the council of cities, trustees of towns, boards of commissioners of counties and directors of school districts, a statement in writing showing the amounts owing by him for labor performed or materials furnished, and the names of the persons to whom such sums are due, and in case such contractor shall have sublet a part of such works, the statement shall show the sum owing the subcontractor, and shall be accompanied by a statement from the subcontractor showing names of persons performing labor or furnishing materials at the instance of such subcontractor, and amounts due such persons respectively; such statement shall be verified under oath by the contractor or subcontractor that the same correctly states the sums owing for labor and materials, with names of persons to whom such sums are owing.

It shall be the duty of clerks of cities and towns and of boards of county commissioners and the secretary of school districts, to cause to be published in some newspaper of general circulation in the county, a notice in substance, that at a designated meeting of the council, trustees, board of commissioners or directors of school districts as the case may be, to be held not less than 10 days from the date of the first publication of such notice, payment will be made the contractor and that claimants to whom sums are owing for labor or materials, may file with the clerk of cities, towns, and board of commissioners or secretary of school districts, on or before the day of such meeting.

SEC. 3. Any person, to whom a contractor or subcontractor may be indebted, may file with the clerk of such city, town, or boards of county commissioners or secretary of the school district, his claim, or before time designated in notice, duly verified upon oath as correct, in which shall be stated the amount claimed as owing, the name of the contractor or subcontractor by whom he was employed, or at whose instance he furnished material. If such claims tally with statement of contractor or subcontractor as to amount due, name of claimant, the amount claimed shall be paid directly to claimant, and shall be deducted out of sum to be paid contractor or subcontractor, as case may be; *Provided*, Where the amounts due contractor or subcontractor are insufficient to pay the claims filed, the sum to be paid contractor or subcontractor shall be pro rated among the respective claimants against such fund in proportion to amount of claims. In case claim filed shall not be admitted, or tally with statements filed by contractor or subcontractor as aforesaid, such claimant shall within 30 days bring suit in some court of competent jurisdiction to recover judgment against the contractor or subcontractor by whom he was employed, or for whom he furnished materials, and upon filing a transcript, showing final judgment has been recovered, together with a certificate of clerk of court, that the same has not been appealed from, shall be entitled to be paid the same as if claim had been admitted as aforesaid. Two or more claimants against the same person may join in suit, and recover one several judgment upon which execution may issue as in other cases.

SEC. 4. This act shall not be construed to prevent payments being made to a contractor during the progress of the work, but no payment shall be made unless receipts are produced from all subcontractors including laboring men and material men, up to the date of any such payment, nor shall it apply to contracts, where the contract price is less than $200.

Approved April 10, 1899.

CHAPTER 154.—*Trade-marks of trade unions, etc.*

SECTION 1. Whenever any person, or any association or union of workingmen, has heretofore adopted or used, or shall hereafter adopt or use, any label, trade-mark, term, design, device or form of advertisement for the purpose of designating, making known, or distinguishing any goods, wares, merchandise or other product of labor, as having been made, manufactured, produced, prepared, packed or put on sale by such person or association or union of workingmen or by a member or members of such association or union, it shall be unlawful to counterfeit or imitate such label, trade-mark, term, design, device or form of advertisement, or to use, sell, offer for sale or in any way utter or circulate any counterfeit or imitation of any such label, trade-mark, term, design, device or form of advertisement.

SEC. 2. Whoever counterfeits or imitates any such labels, trade-mark, term, design, device or form of advertisement; or sells, offers for sale or in any way utters or circulates any counterfeit or imitation of any such label, trade-mark, term, design, device or form of advertisement; or keeps or has in his possession with intent that the same shall be sold or disposed of, any goods, wares, merchandise or other product of labor to which or on which any such counterfeit or imitation is printed, painted, stamped, or impressed; or knowingly sells or disposes of any goods, wares, merchandise or other product of labor contained in any box, case, can or package, to which or on which any such counterfeit or imitation is attached, affixed, printed, painted, stamped or impressed; or keeps or has in his possession with intent that the same shall be sold or disposed of, any goods, wares, merchandise or other products of labor in any box, case, can or package to which or on which any such counterfeit or imitation is attached, affixed, printed, painted, stamped or impressed shall be punished by a fine of not more than five hundred dollars ($500), or by imprisonment for not more than three months or by both such fine and imprisonment.

SEC. 3. Every such person, association or union that has heretofore adopted or used, or shall hereafter adopt or use, a label, trade-mark, term, design, devise, [device] or form of advertisement as provided in section 1 of this act, may file the same for record in the office of the secretary of state by leaving two copies, counterparts or fac-similies thereof with said secretary, and by filing therewith a sworn application specifying the name or names of the person, association or union on whose behalf such label, trade-mark, term, design, device or form of advertisement shall be filed; the class of merchandise and description of the goods to which it has been or is intended to be appropriated stating that the party so filing or on whose behalf such label, trade-mark, term, design, device or form of advertisement shall be filed, has the right to the use of the same; that no other person, firm, association, union or corporation has the right of such use, either in the identical form or in any such near resemblance thereto as may be calculated to deceive and that the fac-simile or counterparts filed therewith are true and correct. There shall be paid for such filing and recording a fee of one dollar. Said secretary shall deliver to such person, association or union so filing or causing to be filed any such label, trade-mark, term, design, device or form of advertisement, so many duly attested certificates of the recording of the same as such person, association or union may apply for, for each of which certificates said secretary shall receive a fee of one dollar. Any such certificate of record shall in all suits and prosecutions under this act be sufficient proof of the adoption of such label, trade-mark, term, design, device or form of advertisement. Said secretary of state shall not record for any person, union or association and [any] label, trade-mark, term, design, device or form of advertisement that would probably be mistaken for any label, trade-mark, term, design, device or form of advertisement theretofore filed by or on behalf of any other person, union or association. But the said secretary shall file and record under this act any label, trade-mark, term, design, device, or form of advertisement, which may have been previously filed by any person, or any association or union of workingmen, provided the person, association or union seeking to file and record under this act is the same person, association or union that previously filed or recorded the same label, trade-mark, term, design, device or form of advertisement.

SEC. 4. Any person who shall for himself or on behalf of any other person, association of [or] union procure the filing of any label, trade-mark, term, design, or form of advertisement in the office of the secretary of state under the provisions of this act, by making any false or fraudulent representations, or declarations, verbally on [or] in writing, or by any fraudulent means, shall be liable to pay any damages sustained in consequence of any such filing, to be recovered by or on behalf of the party injured thereby in any court having jurisdiction and shall be punished by a fine not exceeding five hundred dollars ($500) or by imprisonment not exceeding three months, or by both such fine and imprisonment.

SEC. 5. Every such person, association or union adopting or using a label, trade-mark, term, design, device or form of advertisement as aforesaid, may proceed by

suit for damages to enjoin the manufacture, use, display or sale of any counterfeits or imitations thereof and all courts of competent jurisdiction shall grant injunction to restrain such manufacture, use, display or sale and award the complainant in any such suit damages resulting from such manufacture, use, sale or display as may be by the said court deemed just and reasonable, and shall require the defendant to pay to such person, association or union all profits derived from such wrongful manufacture, use, display or sale; and such court shall also order that all such counterfeits or imitations in the possession or under the control of any defendant in such cause be delivered to an officer of the court, or to the complainant to be destroyed.

SEC. 6. Every person who shall use or display the genuine label, trade-mark, term, design, device or form of advertisement of any such person, association or union in any manner, not being authorized so to do by such person, union or association, shall be deemed guilty of a misdemeanor and shall be punished by imprisonment for not more than three months or by a fine of not more than five hundred dollars ($500).

In all cases where such association or union is not incorporated, suits under this act may be commenced and prosecuted by an officer or member of such association or union on behalf of and for the use of such association or union.

SEC. 7. Any person or persons who shall in any way use the name or seal of any such person, association or union or officer thereof in and about the sale of goods or otherwise, not being authorized to so use the same, shall be guilty of a misdemeanor, and shall be punishable by imprisonment for not more than three months, or by a fine of not more than five hundred dollars ($500).

SEC. 8. In case the plaintiff is successful in maintaining his action either for damages or for permanent relief by injunction, or for nominal damages only, he shall be entitled to recover a reasonable attorney's fee to be taxed by the court as a part of the costs, and merged in the judgment.

SEC. 9. All acts and parts of acts inconsistent herewith are hereby repealed: *Provided*, That this act shall not be construed as impairing any rights heretofore accrued, nor as affecting the remedies therefor heretofore existing.

Approved April 10, 1899.

CHAPTER 155.—*Payment of wages—Truck system.*

SECTION 1. It shall be unlawful for any person, company or corporation, or the agent or the business manager of any such person, company or corporation, doing business in this State, to use or employ, as a system, directly or indirectly, the "truck system" in the payment, in whole or in part, of the wages of any employee or employees of any such person, company or corporation.

SEC. 2. The words "truck system" as used in the preceding section are defined to be: (1) Any agreement, method, means or understanding used or employed by an employer, directly or indirectly, to require his employee to waive the payment of his wages in lawful money of the United States, and to take the same, or any part thereof, in goods, wares or merchandise, belonging to the employer or any other person or corporation. (2) Any condition in the contract of employment between employer and employee, direct or indirect or any understanding whatsoever, express or implied, that the wages of the employee, or any part thereof, shall be spent in any particular place or in any particular manner. (3) Any requirement or understanding whatsoever by the employer with the employee that does not permit the employee to purchase the necessaries of life where and of whom he likes without interference, coercion, let or hindrance. (4) To charge the employee interest, discount or other thing whatsoever for money advanced on his wages, earned or to be earned, where the pay days of the employer are at unreasonable intervals of time. (5) Any and all arrangements, means, or methods, by which any person, company or corporation, shall issue any truck order, scrip, or other writing whatsoever, by means whereof the maker thereof may charge the amount thereof to the employer of laboring men so receiving such truck order, scrip or other writing, with the understanding that such employer shall charge the same to his employee and deduct the same from his wages.

SEC. 3. Any truck order, scrip or other writing whatsoever, made, issued, or used in aid of or in furtherance of, or as a part of, the "truck system" as defined in this act, evidencing any debt or obligation from any person, company or corporation for wages due or to become due to any employee or employees of any person, company or corporation, issued under a system whereby it is the intent and purpose to settle such debt or debts by any means or device other than in lawful money, shall be utterly void in the hands of any person, company or corporation with knowledge that the same had been issued in pursuance of such system, and it shall be unlawful to have, hold or circulate the same with such knowledge.

SEC. 4. Any person who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and shall, upon conviction, be punished by a fine

of not less than one hundred dollars nor more than five hundred dollars, and by imprisonment in the county jail of not less than thirty days, nor more than six months.

SEC. 5. The violation of the provisions of any section of this act by any corporation organized and existing under the laws of this State shall be deemed sufficient cause for the forfeiture of the charter of any such corporation, and the attorney-general of the State shall immediately commence proceedings in the proper court in the name of the people of the State of Colorado, against any such corporation for the forfeiture of its charter.

SEC. 6. Any foreign corporation doing business in this State that shall violate the provisions of any section of this act shall forfeit its right to do business in this State, and the attorney-general of the State shall, upon such violation coming to his knowledge, by information or otherwise, institute proceedings in the proper court for the forfeiture of the right of any such corporation to do business in this State.

SEC. 7. That if the attorney-general of the State should fail, neglect or refuse to commence such actions as are provided for in sections 5 and 6 of this act, after demand being made upon the attorney-general to institute such proceedings by any responsible person, then any citizen of this State shall have the right to institute and maintain such proceedings, upon giving bond for costs of suit.

SEC. 8. The district attorney of any county shall prosecute for any violation of this act in the same manner as he may be required by law to prosecute for the violation of other criminal acts, except as provided in sections 5 and 6 of this act.

SEC. 9. That the provisions of this act shall not be construed to prevent ditch, canal and reservoir companies from contracting or issuing orders or warrants payable at future dates in lawful money of the United States, for labor performed or services rendered for it or to contract for and pay for the same in the capital stock of such companies, or water rights or privileges for water connected with the same.

SEC. 10. That all acts and parts of acts in conflict with any of the provisions of this act are hereby repealed.

SEC. 11. Whereas, in the opinion of the General Assembly an emergency exists; therefore, this act shall be in force and take effect from and after its passage.

Approved March 31, 1899.

CONNECTICUT.

ACTS OF 1899.

CHAPTER 41.—*Employment of children.*

SECTION 1. Any person who shall employ any child under fourteen years of age during the hours while the school which such a child should attend is in session, and any person who shall authorize or permit on premises under his control any such child to be so employed, shall be fined not more than twenty dollars for every week in which such child is so employed.

SEC. 2. Section 2105 of the General Statutes is hereby repealed.

Approved April 5, 1899.

CHAPTER 63.—*Sunday labor—Electric railways.*

SECTION 1. No law of this State affecting travel, business, or labor on Sunday, or the operation on Sunday of any railroad or railway, shall apply to any railroad company or street railway company so as to prohibit or limit the operation, on Sunday, of electric cars.

SEC. 2. This act shall take effect from its passage.

Approved April 19, 1899.

CHAPTER 119.—*Factories and workshops.*

SECTION 1. Section 2265 of the General Statutes is hereby amended to read as follows: All factories and buildings where machinery shall be used shall be well lighted, ventilated, and kept as clean as the nature of the business will permit. The belting, shafting, gearing, machinery, and drums of all factories and buildings where machinery shall be used, when so placed as, in the opinion of the inspector, to be dangerous to the persons employed therein while engaged in their ordinary duties, shall, as far as practicable, be securely guarded. No machinery other than steam engines in a factory shall be cleaned while running, after notice forbidding the same is given by the inspector to the owners or operators of the factory.

SEC. 2. This act shall take effect from its passage.

Approved May 17, 1899.

CHAPTER 135.—*Conditional sales.*

SECTION 1. Every person who shall, with intent to place personal property sold on condition that the title shall remain in the vendor after delivery beyond the control of the vendor, remove, conceal, or aid or abet the removal or concealment of any such property, and any vendee of such property who assents to such removal or concealment, shall be fined not more than five hundred dollars, or imprisoned not more than six months.

SEC. 2. Every vendee of such conditional sale who shall sell or convey the same, or any part thereof, without the consent of the vendor, and without informing the person to whom he sells or conveys, that the same is subject to such conditional sale, shall be fined not more than one hundred dollars, or imprisoned not more than six months.

Approved May 31, 1899.

CHAPTER 170.—*Protection of employees as members of labor organizations.*

SECTION 1. No person or persons, firm or corporation, either directly or by an agent, shall coerce or compel, or attempt to coerce or compel, any laborer, mechanic, or other employee in the employ of such person or persons, firm or corporation, to enter into an agreement, either verbal or written, that, as a condition of retaining his position as such employee, he will not join any labor organization.

SEC. 2. Every person or the agent of any firm or corporation who shall violate the provisions of this act shall be fined not more than two hundred dollars, or imprisoned not more than six months.

SEC. 3. This act shall take effect from its passage.

Approved June 9, 1899.

CHAPTER 197.—*Bureau of labor statistics.*

SECTION 1. Section 3706 of the General Statutes is hereby amended so that the paragraph in said section relating to the salary of the commissioner of the Bureau of Labor Statistics shall read as follows: The commissioner of the bureau of labor statistics, two thousand five hundred dollars and the necessary postage, stationery, and office expenses of said bureau, and the traveling expenses of the commissioner and his assistants, incurred in the performance of the duties of his office, shall be audited by the comptroller and paid in the same manner as the expenses of other departments of the State government.

SEC. 2. Chapter 177 of the public acts of 1889 is hereby repealed.

SEC. 3. This act shall take effect July 1, 1899.

Approved June 15, 1899.

CHAPTER 199.—*Inspection, etc., of factories.*

SECTION 1. The inspector of factories shall, as often as practicable, carefully examine all buildings, apartments, rooms, and places in any tenement or dwelling house used for residential purposes and used in whole or in part other than by the immediate members of the family therein, for the manufacture of coats, vests, trousers, knee pants, overalls, cloaks, skirts, shirts, ladies' waists, artificial flowers, purses, cigars, cigarettes, or any articles of wearing apparel intended for sale.

SEC. 2. It shall be the duty of persons engaged in the manufacture of such goods in such premises within thirty days after beginning such manufacture, and, in cases where persons are now engaged in such manufacture in such premises, within thirty days after the taking effect of this act, to notify said inspector of the location of said workroom or workrooms, the nature of the work there carried on, and the number of persons therein employed.

SEC. 3. It shall be the duty of the person operating said workroom or workrooms to keep the same at all times in a thoroughly clean and sanitary condition and to have the same properly lighted and ventilated and fit for the occupancy of the persons engaged in work therein.

SEC. 4. The inspector or any of his deputies shall notify the owner or owners of such premises, and the person using the same for the purposes set forth in section 1 of this act, in the manner provided in section 2270 of the General Statutes, to provide or cause to be provided ample means for lighting or ventilating such workroom or workrooms, and to put the same in a thoroughly clean, sanitary, and fit condition for occupancy for said work; and, if said notification be not complied with in thirty days after the service of such notice, said inspector or any of his deputies shall cause complaint to be made to any grand juror or prosecuting officer of the city, borough, or town in which such workroom or workrooms are located, to the end that violators of the provisions of this act may be prosecuted.

SEC. 5. Any person, firm, or corporation owning, using, or occupying any work-

room or workrooms used for the purposes specified in section 1 of this act shall, for any violation of the provisions of this act, be fined not more than five hundred dollars.

SEC. 6. The expense incurred by the inspector of factories or any of his deputies, while in the performance of their duties under this act, shall, together with the services of the deputies under this act, be paid by the comptroller, on approval of the inspector of factories.

SEC. 7. This act shall take effect on and after the first day of July, 1899.

Approved June 20, 1899.

DELAWARE.

ACTS OF 1899.

CHAPTER 215.—*Publishing report of the factory inspector.*

SECTION 1. Chapter 452 of volume 20, laws of Delaware * * * is hereby amended by adding to said act the following section as section 10 of said act, viz:

SECTION 10. That the chief justice is hereby authorized and empowered to have published, under the direction of said inspector, in pamphlet form any report made to him by said inspector, required by law to be made by said inspector.

The levy court commissioners of New Castle County are hereby required to pay costs of printing and publishing any and every such report upon the presentation to them of the bills therefor indorsed with the approval of the chief justice. The provisions of this act shall apply to the report made by said inspector to the chief justice in the year A. D. 1898.

Approved February 23, A. D. 1899.

CHAPTER 264.—*Sunday labor—Barbers.*

SECTION 1. Any person who carries on or engages in the business of shaving, hair cutting or other work of a barber, or who opens or allows to be open his barber shop, or place where such business is done, for the purpose of carrying on his said business on the first day of the week, commonly called Sunday, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than ten dollars nor more than twenty dollars, and on failure to pay such fine and costs shall be imprisoned not exceeding ten days.

SEC. 2. Any justice of the peace of the county shall have jurisdiction and cognizance of the offenses mentioned in section 1 of this act, except when said offenses are committed in the city of Wilmington, in which case the municipal court of said city shall have exclusive jurisdiction.

Approved February 23, A. D. 1899.

CHAPTER 266.—*Protection of labels and seals of labor organizations, etc.*

SECTION 1. Whenever any labor organization, association or society, having headquarters in the State of Delaware, whether an independent body or a branch of a national or international body, shall adopt and use for the protection of its interests any label or seal, it shall be unlawful for any person, firm, corporation or other labor organization or society to counterfeit or imitate such label or seal with intent to use the same for the purpose of deceiving the public or any person, society or organization.

SEC. 2. Every person, firm, corporation, society, association or organization who shall use any counterfeit or imitation of such labels or seals as described in section 1 of this act, shall be guilty of a misdemeanor and punished therefor.

SEC. 3. No person, firm, corporation, organization or society shall use or display the genuine label or seal of any organization or society in any manner not authorized by law.

SEC. 4. Any person, firm, or corporation filing with the secretary of state of the State of Delaware, two certified copies of the labels or seals referred to above, shall have them officially recorded for the purpose of this act, and shall receive from the secretary of state a certificate to the effect that such record has been made; *Provided*, That such person, firm or corporation shall pay to the secretary of state the sum of five dollars, one-half of which shall be for the use of the State and one-half as compensation for the secretary of state. The certificate issued by him shall be valid for five years, provided it is not annulled within that time by the General Assembly.

SEC. 5. Any person, firm or corporation violating any of the provisions of this act, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than one hundred nor more than one thousand dollars, or imprisonment not less than six months nor more than one year, or both, at the discretion of the court.

SEC. 6. All acts or parts of acts conflicting with this act are hereby repealed.

SEC. 7. This act shall be deemed a public act and published as such.

Approved March 8, A. D. 1899.

RECENT GOVERNMENT CONTRACTS.

[The Secretaries of the Treasury, War, and Navy Departments have consented to furnish statements of all contracts for constructions and repairs entered into by them. These, as received, will appear from time to time in the Bulletin.]

The following contracts have been made by the office of the Supervising Architect of the Treasury:

BUFFALO, N. Y.—November 11, 1899. Contract with Peoria Heating Co., Peoria, Ill., for boiler plant, low-pressure steam heating and mechanical ventilating apparatus, cold water supply system, etc., for post-office, $63,591.60. Work to be completed within one hundred and eighty working days.

DUBUQUE, IOWA.—December 4, 1899. Contract with Chas. W. Gindele Co., Chicago, Ill., for addition, except heating apparatus, electric wiring, and conduits, to custom-house and post-office, $70,565.95. Work to be completed within one year.

JACKSON, MISS.—December 28, 1899. Contract with Congress Construction Co., Chicago, Ill., for construction, except elevator, of extension of the court-house and post-office building, including heating and ventilating apparatus and alterations in present building, $21,655. Work to be completed within nine months.

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